South Carolina Law Review

Volume 8 | Issue 3 Article 1

Spring 1956

Minutes of South Carolina Bar Association Annual Meeting

THE SOUTH CAROLINA
LAW QUARTERLY

BAR ASSOCIATION TRANSACTIONS

SOUTH CAROLINA BAR ASSOCIATION ANNUAL MEETING

Held at the Cleveland Hotel
With the Spartanburg County Bar Association
As Host
April 6 and 7, 1956
Spartanburg, South Carolina

MINUTES

Friday, April 6, 1956

Registration commenced in the morning and continued throughout the afternoon with Secretary William F. Prioleau, Jr. of Columbia in charge.

3:00 P.M.

The Sixty-second Annual Meeting of the South Carolina Bar Association was called to order by the President, Calhoun A. Mays of Greenwood, and after welcoming the members, he recognized the Honorable Neville Holcombe, Mayor of Spartanburg, who extended a warm welcome to the city. The President then recognized Samuel N. Burts, President of the Spartanburg County Bar, who also welcomed the members. The Chair then recognized Thomas A. Evins of Spartanburg, Chairman of the Program Committee, who briefly outlined the activities planned for the meeting.

Mr. Mays delivered the annual address of the President:

MR. MAYS:

LADIES AND GENTLEMEN OF THE SOUTH CAROLINA BAR ASSOCIATION:

I am before you at this hour under the compulsion of the Constitution and By-Laws which outlines the program of the annual meeting and at this point calls for an "address by the President". I find nothing in the Constitution and By-Laws which suggests the topic for such an

address or regulates its length or manner of treatment. I notice some former presidents have prepared and read scholarly papers on some legal subject. I decided not to attempt to follow that precedent because of lack of confidence in my ability to match such addresses and because better studies of interesting legal subjects can be found in any issue of the American Law Journal and our South Carolina Law Quarterly.

Brantley Harvey at the end of his term took a subject which was a very live public issue of the day—one which still has much life—that is, the danger of communism. In casting about for a subject, I once thought very seriously of following Brantley's lead and discussing the most publicized issue of this day in South Carolina and in many other states, that is, race relations. I abandoned the idea because the subject is entirely too broad to handle in one short discussion. Nevertheless, I shall digress to say that every lawyer in the state and every other citizen in any position of influence, either white or colored, should be striving to find some means or formula by which we can stop the deterioration of the good will between the races in South Carolina. One of the great tragedies of the present situation is that the good will between the races which had been built up in this state is being ruthlessly destroyed.

Other presidents of the Association, such, for instance, as George Warren and Hugh Willcox, have confined themselves in their annual addresses to matters pertaining more closely to Association affairs. This I shall do, hoping to give you some light on the work which we are now doing and hoping to promote the work which should be accomplished in the reasonably near future.

The good work of the Association for the year 1955-56—and it has been a good year in many respects—has been the work of the committees. I can not take credit. As a matter of fact, I fear I have taken too seriously some advice given to me in jest by Dean Sam Prince of the Law School shortly after I became President. I was concerned about some minor detail of the work, the nature of which I have now forgotten, when Sam said "Don't worry about things like that. In this organization you are comparable to the King of England. The Chairman of the Executive Committee is the Prime Minister. Let him do the work." My Prime Minister, Eddie Pritchard, has done a good job and kept things going without too much effort on my part.

I shall not go into the work of the committees generally. That will be reflected in their respective reports but I would like to make special mention of the splendid work of the Committee on Institutes, Symposiums and Seminars, under the chairmanship of John W. Thomas, ably advised and assisted by the Director of Institutes, Dean Prince, and promoted and publicized by Irvine F. Belser, Jr. and his staff through the *NEWS BULLETIN*. The attendance on these institutes has been small in comparison with the membership of the Association, but in every instance sufficiently large to be well justified. They have been led by very able lawyers, experts in their respective fields, who were well received by all who attended. It was the general feeling at the end of each of these institutes that those who did not attend had missed something well worthwhile. It is my hope that each of those who attended will tell other lawyers how much they are worth and that future at-

tendance will be achieved by the word of mouth of lawyers who have attended, recommending the attendance of others. Mere notice by letter or news reports does not seem to be enough to bring out the membership, primarily, I believe, because such notices do not convince the members of the real excellence of the programs.

The *NEWS BULLETIN* is one of the activities under the general direction of the Information Committee, of which R. Beverley Herbert, Jr. is Chairman. In addition to publication of the *NEWS BULLETIN*, the Committee has conducted showings of the film "With Benefit of Counsel" and televised the film "Decision of Justice" and other activities which will be shown in their report.

Special mention should be made as to the Committee on Grievances headed by J. Edwin Belser of Columbia. The work of this Committee is always difficult. The work is heavy and exacting. It requires a high degree of care to see that no injustice is done and a high degree of courage to see that justice is done. Mr. Belser and his Committee have shown both of these qualities and have done an excellent job.

This Committee has not only carried the burdensome details connected with grievances which are made to the bar from time to time but has also formulated a proposal which, if adopted, will greatly facilitate the work of similar committees in the future. This will come up for discussion tomorrow in consideration of the report of the Executive Committee which makes reference to the recommendation of this Committee.

I hope you have seen the report of John M. Scott and his Committee on Ethics, published in the latest *NEWS BULLETIN*, recommending the adoption of a Code of Ethics for the South Carolina Bar, which will come up for discussion at the business session tomorrow.

A lot of work has been done by Frank K. Sloan and his Committee on Procedural Law and Reform. The thought which I have given to the subject of this address is along the same line as that of the work of this Committee. After reading the excellent report of this Committee I find that without collaboration, we have reached in principle the same conclusion, that is, that we are due to make a serious study of procedure in this state and that the first step toward making that study will be the organization of a judicial council.

I have not had an opportunity to read reports of the other committees but I am sure that they are all worthwhile. As I said from the beginning, we have had a good year. This is because our committees have been conscious of their responsibilities and have given earnest thought to the problems before them.

Worthy of special mention in connection with the activities of the Association during the past year are exercises conducted in the Supreme Court: The first, in recognition of the long and distinguished service of Chief Justice Baker upon his retirement; and, second, in honoring Justice Stukes upon his elevation to the position of Chief Justice and Circuit Judge Moss on his elevation to the position of Associate Justice of the Supreme Court. Attendance on these exercises was limited by the capacity of the small courtroom but the exercises were appreciated by the justices and deemed to be very appropriate by the audience present on those occasions.

This is a rather long preliminary opening before getting down to my "address". I shall compensate by shortening the "address".

The subject of this "address", if I should give it a label, would be improvement of the administration of justice in the state courts of South Carolina, through the creation of a Judicial Council.

Frankly, my first thought was to plug for the adoption of the federal rules of procedure, but when I got into the subject I became convinced that the first step should be the organization of a Judicial Council, which would not only make a study of the rules of procedure but of many other subjects important to the proper administration of justice.

I have given a good deal of thought to the subject before and after my elevation to the presidency of the Association. In a few remarks made on my induction in office I expressed an interest in the adoption or adaption for use in the state courts of the Rules of Civil Procedure for the District Courts of the United States. I have written briefly on the subject in two issues of the *NEWS BULLETIN*. My purpose has been merely to endeavor to stimulate interest without asking for any definite decision. I hope now that the time is ripe for us to make some decisions and take some action.

I am heartily in favor of the federal rules for two reasons:
(1st) Because they are more simple, direct and better fitted to bring to issue the essentials of a litigation with less trouble, expense and delay than are the state rules. They are more conducive to the establishment of the facts and law of a case and the elimination of surprise and technicalities which may defeat the ends of justice.
(2nd) Because the adoption of the federal rules would give uniformity of procedure in the trial of cases in the federal and state courts. A great majority of the litigation in the United States District Courts could just as readily be tried in our Courts of Common Pleas but for the non-residence of one of the parties. The facts, law and remedies are in most instances the same. There is no good reason for having different procedures to get the same results. It would be much easier and less confusing to the lawyers if they had only one set of rules to learn and use.

We will not be able to adopt the federal rules without some difficulty. There will be some objection and much apathy, though I hope there will not be enough to defeat our purpose. It has been the history of judicial reform that many of the judges and older lawyers have resisted movements for reform for no better reason than that it involves change and the inconvenience it would cause of learning the better way. I can well remember when I first came to the Bar many anecdotes were told illustrating the dislike and contempt which the older judges and the older lawyers had for what is now, with some modifications, the South Carolina Code of Civil Procedure, which was adopted about 1870. They had learned to practice in the days of Common Law Pleading and preferred not to be bothered with any new system. I fear we may have some opposition to reformed procedure today and for the same reason, that is, reluctance to change; though the change today would not be nearly so great as it was in 1870.

Our Code of Civil Procedure represented a far greater change from

the common law system of pleading and procedure than the adoption of the present federal rules would entail. I wonder how long the adoption of the present Code of Procedure would have been delayed if the matter had been left to the judges and lawyers of 1870. I have done no research on the matter but it is my understanding that some one in the General Assembly in Reconstruction times, probably a carpetbagger from Ohio with but little knowledge of the law, had heard of the simplified procedure which was being widely discussed at that time; and without consultation with the bench and bar of the state proposed the adoption of the Ohio Code as our law of procedure. If this is true, this is the one good thing and perhaps the only good thing which came out of the Reconstruction government. The Ohio Code had been modeled after what is known as the Dudley Field Code, and was a good one.

Frankly, my aspersions on the judges and older lawyers are not justified by my personal experience. Though I have not gone far enough to get a fair sample of their opinions, I have had some approval of the federal rules from both the bench and the bar and I believe no word of criticism has been brought directly to me except from one person, a lawyer of ability and prominence, who makes the point that the federal rules make it too easy for the lazy lawyer. If so, they give some needed protection to the client of a lazy lawyer who may have justice on his side. This is a point in favor of, rather than against the rules. His criticism was directed specifically to the new rules on discovery, which greatly simplify the matter of developing the facts on both sides of a lawsuit before the case comes to trial, in order to eliminate surprise and expedite the trial. The new rules do just that, but his is not a proper criticism if we keep in mind that after all the purpose of a lawsuit is to establish the truth and to do justice and not merely a sporting event in which the object is to outmaneuver the other fellow.

The Code of Procedure for South Carolina as used today is a good Code but it can be improved. When I first commenced to practice in the federal courts a good many years ago I was impressed with the fact that the state procedure was simpler and more sensible and more effective than the federal procedure. I am told by Dean Prince, who was on the team of South Carolina lawyers who assisted in a series of studies of the laws of procedure which covered all states and foreign countries, in which the Anglo-American system of jurisprudence was followed, that Chief Justice Hughes of the U. S. Supreme Court who headed up the studies stated that the committees should give special consideration to the Code of Procedure of South Carolina since it had at that time one of the best codes of any of the states. It is not surprising, therefore, that the Rules of Procedure for United States District Courts, the result of these studies, should be in many respects similar to our present code—more so than the rules which previously had been used in the federal courts. It would present no serious difficulty even for those of us who are steeped in the present code practice and set in our ways to switch over and use the improved procedure if it were adopted in the state courts.

The state practice in well over half of the states has already been strongly influenced by the federal rules. Some eighteen states have adopted for their state practice, all or most of the federal rules. Others

have adopted parts, such as the entire discovery provisions, the provision for joinder of parties and actions and the pretrial conference.

It is interesting to note the acceptance of the federal rules for state practice by other states. Their experience with problems very similar to ours is a valuable guide but the large number of South Carolina lawyers now practicing in the United States District Courts should give us a good indication based on their experience as to whether the adoption of the rules would be good for us.

Assuming that the change over is worthwhile, how shall we accomplish it? What are the mechanics for making the change? Before attempting to make the change, we should take such steps as may be necessary to get assurance that a majority of the members of this Association desire the change. It may be advisable to give over our next quarterly meeting to a study of the rules in order to crystalize opinion and see whether we wish to go further. I hope the matter can have enough discussion and consideration at our meeting tomorrow morning for us to decide whether and how we shall further study the proposition. When and if convinced that we have the support of the Association, there will be several courses which we may follow, bearing in mind that our code procedure is controlled by statute law enacted by the General Assembly and certain rules promulgated by the Supreme Court.

In the early days of English jurisprudence, the courts made their own rules. It is right and proper both from the standpoint of tradition and from the standpoint of the separation of the powers of the three branches of government that the judiciary should make the rules. When the General Assembly enacted the statutes making up our codes of procedure, in my opinion, it encroached upon the powers of the courts, but the courts have acquiesced for so long a time that there is nothing to do about it except to endeavor to persuade the General Assembly to give back to the courts its rule-making power.

Our law as to procedure is embodied in the Code of Civil Procedure supplemented by rules of the circuit courts.

Section 10-16 provides for a general convention every two years of the justices of the Supreme Court and the judges of the circuit courts for the purpose of revising and amending the rules of the circuit courts and establishing such additional rules as may be deemed necessary to regulate the practice in the circuit courts, but such alterations or additions shall not be inconsistent with any of the statutes of the state. The adoption of the federal rules would require the repeal by the General Assembly of many sections of our Code of Civil Procedure.

Irrespective of the traditional rule making power of the courts and the constitutionality of the acts of procedure heretofore enacted by the General Assembly, it is quite evident that we can make no progress without taking the General Assembly into our plans. The only question is how we shall approach the General Assembly. We would certainly get nowhere by asking the General Assembly to consider the rules one by one, with a view of rewriting the Code of Procedure. This would cause endless debate and I fear confusion. There are three approaches to the problem which I will suggest for your consideration.

The first approach would be to follow the pattern used in getting

the federal rules revised. After years of preparation and education conducted largely by the American Bar Association, Congress on June 19, 1934 passed an enabling act, appearing in U. S. C. A. as Section 2072 of Title 28, authorizing the Supreme Court to promulgate rules and declaring null and void all acts in conflict with the rules so promulgated. Before introducing this bill, the approval of the Supreme Court had been assured. As a matter of fact, the known approval of the Supreme Court undoubtedly had great influence in causing Congress to pass the enabling act. 'Upon the passage of the act the Supreme Court promptly set up an advisory committee made up of many lawyers and judges from over the country, which made a very exhaustive study of the rules of procedure of all the states and of other countries using the English system of jurisprudence. This committee finally came up with a report, recommending rules which were then adopted and promulgated by the Supreme Court, and became effective in 1938. There have been some amendments from time to time, a good many in 1947.

A second approach would be to strive first for an integrated bar and then have the integrated bar study the problem and either recommend to the General Assembly a redrafting of the Code of Procedure or the passage of an enabling act authorizing the Supreme Court to revise the rules. The difficulty of that approach is suggested by the futile efforts of the Bar Association in the past to interest the General Assembly in setting up an integrated bar. Conditions may be different now. Today we have a much larger membership than heretofore and may have more influence. I hope so. In prior years, when the membership of the Association was comparatively small, the Association had very little, if any, influence in the General Assembly. I believe and hope that we may now have better standing but I would not recommend that we ask the General Assembly to set up an integrated bar primarily to bring about a revision of the rules of procedure. I believe that we can get both a revision of our rules of procedure and the integrated bar through a plan which I shall now outline.

The third approach or plan is that we ask the General Assembly to pass two acts: First, an enabling act authorizing the Supreme Court to make and promulgate the rules of procedure and repealing all statutes in conflict with the rules so promulgated; and, second, an act setting up a Judicial Council to advise and assist the court in formulating the rules. This would be only one of the many functions of the Judicial Council. The Judicial Council, I am convinced, would be well worthwhile whether or not it results in a revision of the rules of procedure.

It might be well at this stage to distinguish between judicial councils and judicial conferences. A main distinction is that a judicial conference is most often made up solely of judges and includes all the judges within the jurisdiction. A judicial council is a much smaller body and in addition to judges also has lawyers and frequently school men and laymen. The judicial council is an outgrowth of the judicial conference.

A number of states have both a judicial conference and a judicial council. In South Carolina we have a "general convention" of the Supreme Court justices and circuit court judges, which convenes at least once in every two years for revising and amending the rules of the

circuit courts, which I have referred to above as set up under Section 10-16 of the Code. This in modern terminology is a conference rather than a council.

The composition of the councils vary from state to state. Harry D. Nims in a study of the judicial councils in thirty-six states made in 1949, reported in the Journal of The American Judicature Society said that all of the councils except three contained judges; three contained only judges; twenty-three both judges and lawyers; eighteen judges, lawyers and laymen; six, one or more professors of law; one (Texas) a journalist; one (Washington) a prosecuting attorney; and that three were made up entirely of lawyers. The Wisconsin council contains the president elect of the Bar Association and three members elected by the bar association.

The general function of a judicial council is to study and report on the state's judicial system and to make suggestions and recommendations for improvement. The work includes the collection of statistical and other information about the courts, the litigation conducted in them, the efficiency with which they are administered and the soundness of the rules of practice, procedure and evidence and other matters of a similar nature. The result of these activities with any recommendation which the Council desires to make are presented in periodic reports to the courts and to the General Assembly. The Council is a suitable body to which the General Assembly may refer for study any of its problems relating in any way to the administration of justice.

Much information is available as to what judicial councils are accomplishing in other states, which is too detailed to be discussed here. It is worthwhile to mention, however, the case of Virginia, as reported by Chief Justice Edward W. Hudgins in the January, 1954 edition of the magazine *State Government.* The Judicial Council in Virginia was created in 1928. Due largely to the lack of adequate secretarial aid, as stated by Judge Hudgins, it did not function effectively until it was reorganized in 1947 and undertook for its immediate goal the accomplishment of a four point program: (1) The preparation, publication and distribution of *A Handbook for Jurors*; (2) The adoption by the Supreme Court of Appeals of rules which would improve the administration of justice in civil cases; (3) The establishment of a judicial conference; and (4) The creation of the office of an administrative assistant to the Supreme Court of Appeals.

Since my interest in this matter was first directed to the matter of rules, I will elaborate briefly upon this subject as handled by the Judicial Council of Virginia. The Council was broken down into committees. These committees spent long hours writing, editing and reediting rules for suits in equity, actions at law, pretrial conferences and appeal procedure. Then under the leadership of members of the Judicial Council the new rules were adopted in 1950. The change in appellate procedure made it possible to reduce the cost of appeals by at least fifty per cent. Through the cooperation of the organized bar full opportunity was given to the bench and bar for criticism and suggestion but the salient facts, say Justice Hudgins, was that the Judicial Council provided the leadership necessary to achieve this modification in procedure. Though the rule making power had been expressly conferred upon the Supreme

Court of Appeals by legislation some eighty years before, no effective action under these powers was forthcoming until the Judicial Council was able to assume the responsibility and furnish leadership. Justice Hudgins stresses the importance of the fact that the Council provides for a continuous study of methods to expedite and improve the administration of justice.

Justice Hudgins says that the creation of the office of an administrative assistant to the Supreme Court of Appeals, known there as Executive Secretary of the Court, is the real capstone of the movement for the improvement of justice in Virginia. The Executive Secretary serves as the coordinating agency for the complete judicial structure of the state and takes care of the administrative details of the court and acts as full time secretary of the Judicial Council and the Judicial Conference. Through its secretary the Council can investigate and gather statistical information concerning the conditions existing in the various courts relative to the disposition of the judicial business. The Secretary personally visits the judicial circuits, talks with the judges and the clerks and at first hand sees their problems.

The Wisconsin Council is composed of sixteen members, representing the Supreme Court, the circuit judges, county judges, criminal court judges, revisor of statutes, a representative of the Attorney General, a representative from each of the law schools, one assemblyman and one senator, two appointees of the governor, the president-elect of the Bar Association, and three other members elected by the Bar Association for three year terms.

The idea of a Judicial Council in South Carolina is not new. At the annual meeting in 1949 Justice Oxner at the request of President George Warren made an interesting talk in which he gave something of the history and development of judicial councils and expressed his approval as follows:

"When I was honored in 1944 by being asked to make a few remarks to this Association, I undertook to make certain suggestions which I thought might aid in the administration of Justice. Among them was that we adopt in South Carolina a Judicial Council or a Judicial Conference. I am still convinced that this experiment would be worth trying and might prove a valuable addition to our Judicial machinery.

"A Judicial Council is an organization set up to study and make suggestions and recommendations for improvement of the State Judicial system. Primarily it is a research organization and has no power to put its recommendations into effect. Its purpose is to study the operation of the courts and from time to time recommend changes. Such an organization fills a gap in our Judicial system. Some means should be provided for a periodic examination of our rules of court and code of procedure."

Justice Oxner's report is worthy of the careful consideration of every one having an interest in this important subject. You will find it published in Volume 1, Page 312 of the bound volumes of the *SOUTH CAROLINA LAW QUARTERLY.*

The minutes of that meeting reveal that after discussion of the matter by Justice Oxner, a resolution was passed setting up a committee to study the matter and take the necessary action to set up a council.

The committee was duly appointed but evidently was not able to get the matter beyond the discussion stage.

Five years later when Dean Prince was President of the Association in 1954, he revived the matter by appointing a committee which prepared a bill for presentation to the General Assembly, entitled "A Bill to Create a Judicial Council for the State of South Carolina, to Provide for the Composition of its Members and to Define its Duties and Powers." This bill is well thought out and well drawn; but this committee also evidently ran into difficulties which made it impractical to get the matter before the General Assembly for discussion and possible enactment.

Bearing in mind that reforms in judicial administration and particularly along procedural lines has always been slow, but nevertheless can be achieved by insistent intelligent effort. I feel that the time is now ripe for us to revive the idea and get behind this or some other bill and try to get it through.

A somewhat detailed discussion of the bill as drafted by this committee may give you a clearer idea as to what a judicial council is and what it is expected to do. Such a discussion may also suggest to you some changes which it might be advantageous to make. This bill would create a council composed of the Chief Justice or some other member of that court designated by him to act as chairman, three circuit judges appointed by the Chief Justice, the Attorney General or some other member of his office designated by him, the chairman of the Judiciary Committee of the Senate, the chairman of the Judiciary Committee of the House, the Dean of the Law School and seven other members, not less than five of whom shall be lawyers, to be appointed by the Governor. A council so composed would be an able and effective council. I feel though that the organized bar should be represented. If it were not desirable to increase the membership of the council beyond the seven appointees of the Governor as proposed in this bill, the number of appointments by the Governor might be reduced to three laymen; and the Bar Association might be permitted to furnish four, one of whom should be the president.

Under this bill the term of office of the Chief Justice, the Attorney General, the chairmen of the Judiciary Committees and the Dean of the Law School as members of the Council would be contemporaneous with their official terms. The circuit judges would be appointed for three year staggered terms; and the appointees by the Governor for three year staggered terms. Vacancies would be filled in the same manner as for the original appointment.

At the risk of making this talk too long, I shall quote the section which states the duties of the Council since that is the heart of the matter:

> (a) To make a continuous study and survey of the Administration of Justice in this State, and of the organization, procedure, practice, rules and methods of administration and operation of each and all of the Courts of the State, whether of record or not of record, and of each and all of the agencies, boards, commissions, bodies and officers of the State having and exercising quasi-judicial functions and powers.

(b) To receive and to consider, and in its discretion, to investigate criticisms and suggestions pertaining to the Administration of Justice in the State of South Carolina.

(c) To collect, compile, analyze and publish statistical and other information concerning the work of the Courts of said State and such other information as the Council may prescribe from time to time.

(d) To recommend to the General Assembly or to the Courts of said State or to any Officer or Department of the State, either upon request or upon the Council's own motion, such changes in the law or in the rules, organization, operation or methods of conducting the business of the Courts, and of each and all of the agencies, boards, commissions, bodies and offices of the State having and exercising quasi-judicial functions and powers or with respect to any other matter pertaining to the Administration of Justice, as it may deem desirable.

The bill would require the judges and clerks of court, the sheriffs, solicitors and other officers to render to the Council such reports as it may request upon matters within the scope of its duties.

The Council would be required on or before December 15th to prepare and file with the Governor an annual report upon its activities and upon the work of the courts of the state and at the same time make recommendations for the improvement of the administration of justice. The Council would be permitted to publish from time to time such reports as it may deem desirable. As to expenses, the bill provides that a member shall not receive any compensation but shall be allowed and paid for his expenses incurred the same per diem and mileage as is now provided by law for other state officials. The weakness of this bill, in my opinion, is that it does not provide for a paid staff, though as a matter of tactics it might be better to first get the Council set up and let the Council, after it has made a survey of its needs, ask for an appropriation to support it.

If we can stimulate enough interest, it would be very beneficial to have this matter fully discussed at our business meeting tomorrow. If it can not be reached or can not be fully discussed at that meeting, it should be scheduled for an early quarterly meeting of the Association, which might be given over entirely to a judicial council and a reform of court procedure.

If I have stimulated any interest and injected new life into this matter of promoting a judicial council for the State of South Carolina, I will be well satisfied with the accomplishments of my year as President of the South Carolina Bar Association.

Now as I come to the end of my year as President of the South Carolina Bar Association, I am conscious, as I have been throughout the year, of the great honor which was bestowed upon me by my election to this office. I have a very high regard for the group of men and women making up the membership of the bar of South Carolina. As a group, they are notable for integrity, intelligence, public spirit, patriotism and high ideals. Those members of the bar who have banded together as the South Carolina Bar Association have something extra

in their capacity for fellowship and the willingness to serve their fellow members and the public at large in an unselfish effort to improve our profession and better the conditions under which all of us work and live. To be called to lead such a group is indeed a high honor. I shall ever cherish it as the climax of my long career as a lawyer.

Calling for the reports of the various Standing Committees, the President recognized B. Allston Moore of Charleston, Chairman of the Committee on Unauthorized Practice.

MR. MOORE:

In *Bump v. District Court*, 232 Iowa 623, 5 N. W. 2nd 914, the Court said:

> "The public far more than the lawyers suffers injury from unauthorized practice of law. The fight to stop it is the public's fight. No man is required to employ a lawyer if he does not wish to. But every man is entitled to receive legal advice from men skilled in law, qualified by character, sworn to maintain a high standard of professional ethics and subject to the control and discipline of the Court... unauthorized practice of law is the attempt by laymen... to make it a business for profit of giving the public, as a substitute, the services of unqualified and unprofessional persons . . ."

The public interest demands that only adequately qualified persons be permitted to practice law; that lawyers admitted to practice by the Courts are officers of the Court and as such are an important part of our judicial system, and are subject to supervision and control of our judiciary which may suspend or disbar them for misconduct; that a disbarred lawyer, like any other layman, may not practice law thereafter in any manner whatsoever.

This Committee believes that the right to practice law is fundamentally a public trust, and that as lawyers we owe it to the public, to our profession, and to the younger members of the bar to restrain or prevent the unlawful practice of law by laymen.

The Committee has had two complaints of unauthorized practice and held a hearing in the office of the Attorney General, at which witnesses appeared in support of the claims. All members of the Committee were present.

At the conclusion of the hearing the Committee considered fully the evidence presented, and discussed the various angles and conclusions to be drawn from the evidence, and unanimously decided that the complaints were well founded and authorized the Chairman to write a letter to each offender demanding that he refrain and desist from any further acts that constitute the unauthorized practice of law. The Committee further advised the parties charged that if they did not agree with the findings of the Committee that the Committee would set a time and place for a hearing, at which time they could bring witnesses and be represented by counsel, but that if no such request for a hearing were made, the Committee would assume that the findings were correct, and that if the parties charged continued the unauthorized practice of law the Committee would take steps to prosecute or have them prosecuted under the statute.

Independent Adjusters

The Committee is pleased to report that there have been no complaints concerning the activities of independent adjusters or company employed adjusters during the last year.

JOHN K. DELOACH
W. C. BOYD
CLEMENT HAYNSWORTH
MARSHALL WILLIAMS
B. ALLSTON MOORE, *Chairman*
Committee on Unauthorized Practice

John H. Lumpkin of Columbia, Chairman of the Committee on Memorials, presented the following report.

MR. LUMPKIN:

This committee is delegated with the duty of preparing or having prepared proper memorials to those of our brethren who have died since our last meeting. During the past year, it has consisted of the following members by Judicial Circuits:

First, W. R. Symmes; Second, John A. May; Third, John D. Dinkins; Fourth, Melvin Hyman; Fifth, R. Hoke Robinson; Sixth, David A. Gaston; Seventh, Bruce White; Eighth, G. Miller McCuen; Ninth, J. D. E. Myer; Tenth, E. H. Ninestein; Eleventh, McKendree Barr; Twelfth, Malcolm Woods; Thirteenth, George L. Grantham; and Fourteenth, Hugh Hanna. Each member has attended to the matters involved in his Circuit.

It has been our endeavor and intent to select fellow members of the Bar who by reason of long association with the deceased could perpetuate their memory on the basis of personal knowledge and warm friendship.

The following is a list of the South Carolina lawyers who have died since May 27, 1955, the date of our last memorials' report.

Deceased Lawyers	*Writers of Memorials*
Stuart Murray Andrews, Georgetown	A. L. King
Robert L. Ballentine, Anderson	Francis Fant and S. Eugene Haley
Garvin Gigniliatt Christopher, Pickens	G. L. Grantham
Hon. Edward C. Dennis, Darlington	Robert L. Kilgo
Harold Major, Anderson	T. Sloan Banister and Thomas Allen
George H. Momeier, Charleston	J. Kenneth Rentiers
W. C. McGowan, Columbia	W. M. Shand, Jr.
Wm. M. Smoak, Aiken	John A. May
C. W. F. Spencer, Sr., Rock Hill	W. Clarkson McDow
Walter Fore Stackhouse, Marion	A. F. Woods
Frank A. Thompson, Conway	W. Kenneth Suggs

(Memorials to all of the above are printed immediately following Appendix A.) If the committee has inadvertently overlooked any deceased lawyer who should be memorialized, it would be appreciated if

such omission is called to our attention. It has been our purpose to assist in memorializing the lives of those who have lived and died as worthy members of our profession and worthwhile members of their respective communities.

Respectfully submitted,

JOHN H. LUMPKIN, *Chairman*
Committee on Memorials
to Deceased Members

The President then called for the report of the Committee on the Law School and was advised by the Secretary that because of illness the Chairman, J. Means McFadden, was unable to be present but that his report had been previously submitted. The Secretary was requested to read the report.

MR. PRIOLEAU:

At the last annual meeting of the Association, upon motion of B. Allston Moore, Esquire, the President was directed to appoint a Committee to review the question of salaries of the Law School professors in the University and to make recommendations accordingly. Immediately thereafter the President made our Committee a special committee on the subject of these salaries. During the year we have been in correspondence with John G. Hervey, Secretary of the Council on Legal Education of the American Bar Association and Law School inspector, both for the American Bar Association and for the Association of American Law Schools. Mr. Hervey expects to visit the Law School and have a conference with your Committee at some early date during this year. After that visit, your Committee will be in better shape to report on the matter of appropriate salaries in the Law School of the University.

Your Committee would further call attention to the Law School notes in the *NEWS BULLETIN* which preceded this annual meeting and particularly to the analysis there of the performance of the present freshman class.

Your Committee is particularly pleased with the fact that all applicants for admission to the Law School are required to take the Law School Admission Test, given by the Educational Testing Service of Princeton, New Jersey, and though the result of the test of any particular applicant for admission to the Law School does not invariably point to a definite quality of performance in the Law School, yet it is interesting to note that when one groups these students by grades on these admission tests and then gets the average of performance of each group, it is noted that as the scores on the test move upward on an average, the grades of the students on an average likewise move upward. It may be that the compounding of the applicant's academic records in certain fields with the record of the applicant on the Law School Admission Test will give the Law School more definite criteria in predicting success or failure of the applicant in the Law School. The Law School continues to study this subject and from time to time your Com-

mittee should report to the Association on this phase of performance in the Law School.

There is another phase of legal education that we would call to the attention of the Association and which, in our opinion, is of major importance. For the reasons stated below, your Committee wishes to recommend the initiation of organized studies of problems in education and preparation for admission to the bar by a more extensive group than your Committee.

Members of our profession are advisedly spoken of as being "members of the bar"—meaning members of the bars of the courts of the state and officers of these courts. By statute and by inherent power the Supreme Court of our state has the function of determining who shall be admitted to the bars of the courts of this state and become such officers, and further, under what circumstances each such member shall retain this status as attorney, an officer of the court. The fact that the attorney is an officer of the court is supported not only historically and by the common law of our state, but also by the terms of our Code providing that the attorney shall hold his "office for life," subject, however, to removal under some prescribed circumstances; and is supported further by the fact that our state Constitution requires that each person, being admitted to the bar, take the constitutional oath of office. Members of no other profession are required to take this oath.

In civilized nations perhaps the most important profession is that which provides and administers law—without law and its accompanying facets of justice and freedom, there is tyranny and chaos. A corollary of this fact is that the public is deeply concerned with the quality of men admitted to the bar, and the adequacy of their preparation and their continual development. Generally speaking, the legal profession can rise no higher than its source of supply, to wit: the law schools, in the main.

It behooves us to recognize that this responsibility rests principally upon those of us who are members of the South Carolina Bar Association, members of the Judiciary, Bar Examiners, legal educators and intelligent laymen who devote thought and effort to developing in prospective law students an effective broad cultural foundation upon which to build a legal education.

Your Committee observes that in training so as to "discharge the duties of an attorney-at-law," as required by statute and rule of court, this training naturally divides itself into a number of stages—preparation for the study of law—high school and college—study of law under good teachers—correlation of law studies in preparation for testing by the State Bar Examining Board and in such testing itself—and later, study in institutes and seminars; as well as the training a lawyer gets daily in the practice of his profession.

Probably much can be done in preparing prospective law students for admission into the law schools. The law schools themselves have the matters of improvement of teaching staff, providing better facilities and salaries, and the like. Much should be done with the problem of further adjusting law school curricula to the ever changing needs of the public for legal services. In this field, too, the bar examiners are especially interested in keeping abreast of the needs of the public for legal services so as to adjust their testing with a view of determining how well the

candidate for admission to the bar has been prepared to render this service. There are also problems incident to legal training after admission to the bar, not to mention determination of character qualifications of those who not only would enter the profession, but continue therein.

In the opinion of this Committee, there is need for a coordination of efforts in the solution of these and other of the many problems incident to proper training for admission to the bar as well as to thereafter discharge an attorney's "public trust."

No doubt coordinated effort will be welcomed among those responsible in this important field of preparation and development. Those men and women heading up departments of Arts and Sciences and the like in our colleges and universities, those men on the staff of the Law School, representatives of the Bar Association, members of our Supreme Court—all are interested in these matters and in our opinion would profit by the counseling of each other. In the opinion of your Committee, when representatives of these groups are organized and are studying the problems of these related divisions of legal training, much can be accomplished. Your Committee would, therefore, recommend that the Association request the Supreme Court of our state to select from members of these several groups named, or otherwise, a Council on Legal Education, and that the Chief Justice, or some other member of the Supreme Court, appointed by him, assume the general chairmanship of this Council.

We would further recommend that this Council so to be set up become an instrument of our Supreme Court, perfect its internal organization, determine its program, and function in such manner as will most effectively assist those hereafter coming to the bar to become better and more adequately prepared for this public trust.

We would further recommend that the size, personnel, and program of such Council be subject from time to time to such change, and with such rotation, as the Supreme Court may determine upon.

Respectfully submitted,

THOMAS A. BABB
T. B. BRYANT, JR.
H. HAYNE CRUM
G. WERBER BRYAN
J. A. SPRUILL
RUFUS M. WARD
JOHN M. SPRATT
FRANK H. BAILEY
ROBERT E. VANDIVER
J. FRED BUZHARDT, JR.
W. B. NORTON, JR.
F. DEAN RAINEY
ISODORE BOGOSLOW
J. MEANS MCFADDEN, *Chairman*
Committee on the Law School

The President called upon the members of the respective judicial circuits to caucus and elect their members of the Nominating Committee. The following members were named:

L. Marion Gressette—*First Circuit*
Solomon Blatt, Jr.—*Second Circuit*
John S. Wilson—*Third Circuit*
William C. Goldberg—*Fourth Circuit*
Frank B. Gary—*Fifth Circuit*

David A. Gaston—*Sixth Circuit*
Thomas B. Butler—*Seventh Circuit*
Thomas H. Pope—*Eighth Circuit*
deRosset Myers—*Ninth Circuit*
Robert E. Vandiver—*Tenth Circuit*
J. Fred Buzhardt—*Eleventh Circuit*
Charles W. Muldrow—*Twelfth Circuit*
W. Francis Marion—*Thirteenth Circuit*
W. J. McLeod, Jr.—*Fourteenth Circuit*

The business meeting recessed at five o'clock.

Friday Afternoon

The members and their guests were entertained at a party at the Spartanburg Country Club. Host for the gala affair was the C & S National Bank.

Friday Evening

The members and their guests were entertained at a reception given by the Lawyers Title Insurance Company, followed by a buffet dinner and dancing at the Spartanburg Memorial Auditorium as guests of the Spartanburg Bar.

Saturday Morning

The President called the meeting to order and a motion was placed before the Association for the adoption of the report of the Committee on the Law School. After some discussion by Tench P. Owen of Clinton and Frank H. Bailey of Charleston, the report was adopted.

The Chair then recognized Frank B. Gary of Columbia, Representative of the South Carolina Bar Association in the House of Delegates of the American Bar Association, who gave his report.

MR. GARY:

Since our meeting at Myrtle Beach last May, the House of Delegates has held two meetings, one during the Annual Meeting of the American Bar Association in Philadelphia in August, and another in Chicago in February. As your representative I attended both of these meetings in company with our delegate W. J. McLeod, Jr.

As most of you already know, the American Bar Association is governed by a Board of Governors of ten and by a House of Delegates numbering more than two hundred. Members of the Board of Governors are elected by the House of Delegates from certain defined areas largely co-extensive with the Federal Judicial Circuits. Our area, how-

ever, in addition to the states composing the Fourth Circuit, includes the District of Columbia. The House of Delegates is composed of fifty-two State Delegates, one from each state and territory represented, elected by the members of the American Bar Association from that state or territory; Bar Association delegates representing various state, territory and city Bar Associations, the number of delegates being dependent upon the number of lawyers comprising the particular Association, and certain delegates who represent the Assembly and various sections of the American Bar Association. The House of Delegates functions in a manner similar to the South Carolina House of Representatives and although its meetings in any one year last a total of about six days, it handles many matters during this short period. Practically all of these matters have been considered carefully by one or more of the sections and come in with some type of recommendation of the Board of Governors.

Of the matters handled at the Philadelphia Meeting and at the Chicago Meeting I will mention only those which would seem to be of particular interest to you.

At Philadelphia

The House adopted the recommendation of the American Citizenship Committee favoring Joint Resolution No. 193 to provide for a commission to make available information as to the basic differences between theories and practices of the American way of life and of atheistic communism.

The House adopted the recommendation of the Committee on Jurisprudence and Law Reform favoring the enactment of House of Representatives No. 3 which is a bill to establish rules of interpretation governing questions of the effect of Acts of Congress on state laws.

It adopted the Report of the Committee on bar examiners seeking to require minimum standards for bar examiners and bar examinations.

It adopted a proposal of the Section on Administrative Law that a survey be made of the problems arising out of the possibility of atomic attack.

It adopted the Report of the Committee on International and Comparative Law recommending that Congress pass a bill establishing an effective student exchange program with Latin American countries.

It adopted a proposal of the Section on Real Property, Probate and Trust Law, that the legislatures of the respective states be urged to adopt statutes eliminating present excessive burden of documentation required for transfer of stock by fiduciaries.

It adopted the following proposals of the Section on Taxation:

(1) To make the Statute of Limitations on filing refund claims coextensive with that for assessing deficiencies;

(2) Making clear that effect of filing documents by registered mail will not be overcome by evidence that the agency made diligent search for the document;

(3) That waivers of Statute of Limitations executed by transferees and fiduciaries extend periods for claiming refunds; and

(4) That provisions granting new income tax basis for assets in-

cluded in a decedent's taxable estate at his death extend to a restricted stock option not exercised prior to death.

It approved the action of the Board of Governors authorizing the President of the Association or a representative designated by him to appear before the appropriate committee of Congress to present their position on the subject of Social Security.

At Chicago

The House adopted a Committee report recommending that Congress be urged to restore the right of trial by jury to both defendant and plaintiff in condemnation proceedings in the Federal Courts.

It adopted a report of the Federal Judiciary Committee recommending:

(1) That Democratic and Republican parties be urged to declare and observe the principle that all appointments to the Federal Judiciary be on the basis of merit instead of political affiliations;

(2) That the President of the United States avail himself of the recommendations of the American Bar Association in making these appointments; and

(3) That the Conference of State Bar Presidents be urged to further the creation of committees on the Federal Judiciary in the various State Bar Associations.

It adopted a Report of the Committee on Legal Services and Procedure recommending:

(1) A comprehensive re-examination of the Administrative Procedure Act of 1945 and related matters;

(2) That the Association sponsor the enactment of a Code of Federal Administrative Procedure providing for various improvements;

(3) The establishment within the Executive Branch of the Government of an office of Administrative Procedure and Legal Services;

(4) Special Courts as a part of the Judicial Branch of the Government having original jurisdiction in certain specified cases now handled under Administrative Agencies;

(5) That the Tax Court be removed from the Executive to the Judicial Branch;

(6) The enactment of more comprehensive and explicit legislation relating to rights of persons or organizations to appear and be represented by others before Federal Agencies; and

(7) Drastic changes in the legal set-up in the Army, Navy and Air Force.

The House approved the holding of Regional Meetings during 1956 in Hartford, Connecticut; Spokane, Washington; and Baltimore, Maryland. The Baltimore Meeting will be October 10-13.

The House adopted a Report of the Section on Anti-Trust recommending that trial judges have discretionary power to award treble damages.

It adopted a Report of the Committee on Criminal Law recommending appellate review of sentences, on appeal by the defendant, in criminal cases.

It adopted a Report of the Committee on Taxation recommending amendment of the Internal Revenue Code to impose a Statute of Limi-

tation on the determination and assessment of deficiencies wherever returns were actually filed, even though the returns were fraudulent.

The House approved a recommendation of the Board of Governors placing the American Bar Association on record as favoring compulsory coverage for self-employed lawyers under the Social Security Act if voluntary coverage is not obtainable.

It approved the recommendations of the Committee on Jurisprudence and Law Reform disapproving House Resolution 7070 which would require all lawyers practicing in the Federal Courts and before Federal Boards and Commissions to take oath that they are not Communists.

The Report of the Board of Governors reviewed briefly the plans for the 1957 meeting to be held partly in New York and partly in London. The latter part will be from July 24-30.

The House approved the recommendation of the Committee on Draft condemning as reprehensible the practice of offering military service as an alternative to prosecution and/or imprisonment for criminal offenses.

I regret that time does not permit my mentioning many other actions which were taken by the House of Delegates at their two meetings.

As I told you last year, the American Bar Association is eager to have every state and local Bar Association participate in its affairs and offers a warm welcome to every member of the South Carolina Bar Association who would like to become a member.

Mr. Gary next gave the report of the Special Insurance Committee.

MR. GARY:

In Re: Group Disability Income Insurance Plans Submitted by:
World Insurance Company, Omaha, Nebraska, and
Educators Mutual Insurance Company, Lancaster, Pennsylvania

Proposals by the two above companies to the Bar Association for group disability income insurance plans have been referred to this committee for recommendations as to which company's proposal best meets the needs of the Bar Association members.

After several meetings with representatives of both companies, and careful study of the competing plans, the committee recommends that the World proposal be approved and endorsed by the Bar Association.

Both companies offered the member his choice of two kinds of disability income benefits—short range and lifetime benefits. The lifetime benefit plan of the World Company was approved several years ago by the Bar Association and about 32 per cent of the members of the Bar Association are now insured under it. A World plan for short range benefits, at considerably less premium than the lifetime plan, is now available for those members who for one or another reason found the lifetime plan unsuitable for their insurance programs.

Study showed numerous competitive differences between the two proposals, and that neither was far superior to the other. However, upon detailed analysis, the World proposal proved superior to the Mutual plan in several important and decisive respects. Some of the factors considered most significant by the committee in reaching its decision now follow:

1 (a). *World:* Benefits available without any certain percentage of Bar Association members having enrolled.

(b). *Mutual:* Fifty per cent of Bar Association members must enroll before plan goes into effect.

2 (a). *World:* No terminating age at which policy is cancelled or benefits expire.

(b). *Mutual:* Automatic termination at age seventy, except those on disability, and other unfavorable age limitations.

3 (a). *World:* Rates remain level after entry.

(b). *Mutual:* Rates may be revised upwards as company reserves right to increase rates if loss experience warrants it.

4 (a). *World:* Under the lifetime plan a member can obtain monthly benefits up to $400 for the first year and up to $300 thereafter for life.

(b). *Mutual:* Under the lifetime plan a member can obtain monthly benefits up to $216.
NOTE: The endorsement of the Mutual plan would result in an automatic reduction of the monthly benefits of any member now enrolled under the World lifetime plan for more than $216. The committee believes such an automatic reduction would be unfair to such part of the 32 per cent of the Bar Association members already enrolled under the World plan and affected by this provision.

5 (a). *World:* Premium rates based on age differences.

(b). *Mutual:* Single premium rate.
NOTE: This prejudices younger members of the Bar as they, in effect, pay a portion of the older members' insurance costs.

6 (a). *World:* Benefit payments are doubled if a member is hospitalized. Even though a member enrolls on a waiting period basis, he still receives the hospital benefit from the first day of hospital confinement up to a maximum of 90 days for each disability.

(b). *Mutual:* No hospitalization benefits.

PREMIUM COST: Upon the basis of raw dollar cost of premiums, the Mutual proposal enjoys an advantage over World. This advantage is about $3.00 annually with respect to the plan for lifetime benefits, and about $30.00 annually with respect to the plan for short range benefits. Despite these advantages of the Mutual proposal, upon the basis of its overall study of this problem, the committee finds in favor of the World proposal.

Since the two companies do not use the same basis in fixing premium rates, no exact comparisons of rates could be made. (World's rate is based upon age differences while Mutual offers a single premium for all ages.) However, the World rates were transposed, as nearly as possible, into a "single premium rate" which was compared, also as nearly

as possible, with Mutual's single premium rate. This was done as follows: For lifetime benefits of $200.00 monthly, beginning with the first day of disability, the World premium for members from 18 to 55 years of age is $192.00 annually; for members from 55 to 65, $288 annually. Adding these two premium rates and dividing by two gives World's so-called single premium rate, in this particular example—$240.00 annually for a monthly benefit of $200.00 for life. This rate of $240.00 compares with Mutual's rate of $205.00 annually for monthly benefits of $216.00, the nearest denomination to $200.00 which it offers, and results in a premium difference in Mutual's favor of $35. However, most and perhaps all of this $35.00 difference is offset by the additional payment by World for hospital confinement (noted in 6 above) as comparable hospital confinement benefits would cost the member from $32.00 to $40.00 annually.

With respect to the plan for short range benefits, World's single premium rate is $135.00 annually for a monthly benefit of $200.00, beginning with the 7th day of disability and continuing for 1 year for each sickness and for 5 years for each accident. This rate of $135.00 compares with Mutual's rate of $73.00 annually for a monthly benefit of $216.00, beginning with the 8th day of disability caused by sickness and continuing thereafter for 2 years, and beginning with the 1st day of disability caused by accident and continuing thereafter for 5 years and 40 weeks. Here the premium difference in Mutual's favor is $62.00, and after subtracting $32.00 for lack of hospital confinement benefits, a $30.00 difference remains. The committee realizes that the raw premium difference on the short range plan is significant; however, the committee finds that such difference does not overcome the matters set forth in the numbered items above, especially since the premium difference may be cancelled out if Mutual exercises its right to increase premiums. (See 3 above.)

A motion was then made that the Executive Committee receive the report and designate an insurance company. This motion was seconded by Thomas B. Butler of Spartanburg and duly passed.

Charles W. Muldrow of Florence, Chairman of the Nominating Committee, was called upon to present the nominations for officers of the Association for the next year. These were as follows:

For President: David W. Robinson of Columbia.
For First Vice-President: J. Davis Kerr of Spartanburg.
For Executive Committeeman: John M. Scott of Florence.
For Circuit Vice-Presidents:

First Circuit—P. Frank Haigler, Orangeburg
Second Circuit—H. Hayne Crum, Denmark
Third Circuit—Sheppard K. Nash, Sumter
Fourth Circuit—Leroy M. Want, Darlington
Fifth Circuit—John Gregg McMaster, Columbia

Sixth Circuit—James L. Moss, York
Seventh Circuit—Robert F. Chapman, Spartanburg
Eighth Circuit—J. Perrin Anderson, Greenwood
Ninth Circuit—Henry Buist, Charleston
Tenth Circuit—William L. Watkins, Anderson
Eleventh Circuit—Butler B. Hare, Saluda
Twelfth Circuit—Richard A. Palmer, Florence
Thirteenth Circuit—George L. Grantham, Pickens
Fourteenth Circuit—Donald H. Fraser, Walterboro

Mr. Gary moved that Mr. Robinson be elected President. Edward K. Pritchard of Charleston seconded the motion and moved that the nominations be closed. Mr. Robinson was elected by acclamation.

Mr. Butler moved that Mr. Kerr be elected Vice-President. L. Marion Gressette of St. Matthews seconded the motion and moved that the nominations be closed. The motion was duly passed and Mr. Kerr was elected by acclamation.

Hugh L. Willcox of Florence moved that Mr. Scott be elected to the Executive Committee. Mr. Evins seconded this and moved that the nominations be closed. This was done by acclamation.

F. Dean Rainey of Greenville moved that the 14 nominations for Circuit Vice-Presidents by the Nominating Committee be adopted. C. T. Graydon of Columbia moved that the nominations be closed and that these gentlemen be elected by acclamation. The motion was duly carried.

The President then called upon Mr. Prioleau for the Secretary-Treasurer's report. Mr. Prioleau called attention to the fact that this report covered only eleven months.

MR. PRIOLEAU:

FINANCIAL STATEMENT
May 25, 1955 through April 4, 1956
INCOME

Balance May 25, 1955	$3,885.08	
Reimbursement from Florence County Bar Association for 1955 meeting	279.65	
Collections May 25, 1955 to April 4, 1956	7,707.81	
Interest earned at Building & Loan	21.88	
TOTAL INCOME		$11,894.42

EXPENDITURES

Salaries: Executive Secretary			
John A. Mason	$ 75.00		
Wm. F. Prioleau	800.00	875.00	
Annual Meeting — 1955	2,926.47	2,926.47	
News Bulletin	468.60	468.60	
Institutes:			
Labor Law	362.88		
Ethics	25.98	388.86	
Law Quarterly	1,041.00	1,041.00	
Committee Expenses	183.31	183.31	
Memberships:			
National Conference of Bar Presidents	25.00		
National Conference of Bar Secretaries	15.00	40.00	
Office Expenses:			
Stationery	70.11		
Printing	128.91		
Postage	49.50		
Supplies	13.67		
L. D. Telephone	43.26		
Clerical Help	15.00	320.45	
Miscellaneous:			
Reimbursement to Richland County Bar for Investigation Expenses	75.00		
Position Bond—Sect'y.-Treas.	25.00		
Cruise Questionnaire	64.34		
Gift for Chief Justice Baker	108.57		
Reception for Court	167.08	439.99	
TOTAL EXPENDITURES			$ 6,683.68
BALANCE ON HAND			$ 5,210.74

President May appointed an auditing committee with Henry Busbee of Aiken as Chairman, to check the Secretary-Treasurer's report and to report its findings to the meeting.

John Gregg McMaster of Columbia, Chairman of the Resolutions Committee, was recognized and presented the following resolution:

MR. McMASTER:

WHEREAS, the South Carolina Bar Association is enjoying at this annual meeting the warm and wonderful hospitality of the Spartanburg Bar and desires to express its appreciation for that hospitality in the form of a resolution, but

WHEREAS, it is impossible to enumerate all of those many factors

and efforts which have contributed to make this one of the finest meetings ever, such as the marvelous dinner and dance last evening, the attractive decorations which your ladies are responsible for, the large and small parties and other affairs which you have arranged, and all the myriad details necessary but often unnoticed in a gathering of this size, and

WHEREAS, it is equally impossible to list all of the members of your Bar who have accomplished these things,

NOW, THEREFORE, BE IT RESOLVED that we extend our heartfelt thanks to the Committee on Arrangements, the officers and members of the Spartanburg County Bar Association and their lovely ladies for the opportunity of meeting here with you in your fine city, and for your fellowship and friendship, and overwhelming hospitality.

Mr. McMaster moved the adoption of the resolution and it was seconded by J. LaRue Hinson of Greenville. The motion was unanimously adopted with a rising vote of thanks.

Next, W. Brantley Harvey of Beaufort proposed the following resolution:

MR. HARVEY:

WHEREAS, the Hilton Head Toll Bridge Authority will dedicate on May 19, 1956 the newly constructed bridge from the mainland near Bluffton, South Carolina to Pinckney Island and the bridge from Pinckney Island to Hilton Head Island, which said bridges are to be known as the James F. Byrnes Crossing, and

WHEREAS, this dedication which is to take place on Hilton Head Island in Beaufort County, South Carolina pays tribute to a great South Carolinian and a great American, and

WHEREAS, James F. Byrnes has served the people of this State and Nation as Governor, Congressman, United States Senator, Supreme Court Justice, Secretary of State and in various other legislative, judicial and executive capacities, and

WHEREAS, it is fitting and proper that the South Carolina State Bar Association go on record as endorsing the naming of said project for one of the distinguished members of our bar,

NOW THEREFORE,

Be it, and it is hereby, resolved that the South Carolina State Bar Association does hereby endorse and approve the naming of the said project at Hilton Head Island in Beaufort County, South Carolina, for the Honorable James F. Byrnes and memorializes each and every one of the members of this association to lend his full efforts and interest in making the dedication ceremonies on May 19, 1956 an entire and complete success.

Mr. Harvey's resolution was seconded by James B. Murphy of Columbia and unanimously passed.

The President recognized Paul Foster, Jr., Editor-in-Chief of the *SOUTH CAROLINA LAW QUARTERLY*, who made a brief report on the *QUARTERLY*, and expressed his appreciation for the cooperation and interest shown by the South Carolina Bar Association.

The report of the Committee on Institutes, Symposiums and Seminars was presented by Secretary Prioleau.

MR. PRIOLEAU:

This committee, following a called meeting, met on October 8, 1956, with the Director of Institutes, Dean Samuel L. Prince, at the law school. At this meeting plans were discussed relating to sectional or regional meetings of the Bar Association in an effort to stimulate and continue legal education. After a thorough discussion of the many subjects that might prove attractive to the members of the Bar, it was concluded that an institute on Labor Law would be both timely and beneficial.

In order to reach more lawyers in the state, it was decided that we would hold a one-day meeting on the subject of Labor Law in Charleston and follow this with the same program in Greenville the next day.

Through the efforts of Dean Prince, Ellison D. Smith, and Professor George S. King, we were able to get an outstanding panel in this field. These panelists were: Mr. Philip Ray Rodgers, then Acting Chairman of the National Labor Relations Board, Mr. Herbert S. Thatcher, a former General Counsel of the American Federation of Labor, and now in private practice representing various international labor unions, and Mr. John C. Gall, originally from South Carolina, and formerly General Counsel of the National Association of Manufacturers, and now in private practice representing industrial employers.

George King of the Law School faculty opened the program, both in Charleston and in Greenville and gave a brief picture of the principal Federal and State Labor Laws. He was followed by Mr. Rodgers, Mr. Thatcher and Mr. Gall. The afternoon sessions were devoted to a discussion of the usual questions confronting the average practitioner in this field, and was presided over by Ellison D. Smith, of the Columbia Bar, who acted as Moderator.

The meeting in Charleston on Thursday, December 15, 1955, and in Greenville on Friday, December 16, 1955, was well received by those lawyers in attendance. In view of the travel distances involved and the wear and tear on the panelists in this caravan operation between the two towns, we are not satisfied that we reached more lawyers in the state than would have been reached had this institute been held in Columbia.

An institute was held on the subject of Professional Ethics and Standards at the Association's Quarterly Meeting in the Russell House, on the University campus, on February 25, 1956. At this meeting, we were honored to have Mr. Henry S. Drinker, of Philadelphia, and since 1944 Chairman, Committee on Ethics of the American Bar Association, and the only author of a book involving legal ethics during the past cen-

tury. Mr. Drinker, introduced by Mr. Thomas H. Pope, gave a very informative, enlightening and entertaining address on the subject of the American lawyer, his standards and his sanctions.

Following lunch, President Mays presided and acted as Moderator of a panel composed of John M. Scott of Florence, Chairman of the Association's Committee on Ethics, J. D. O'Bryan of Kingstree, R. Beverly Herbert of Columbia, John D. Nock of Cheraw, Jesse W. Boyd of Spartanburg, and Dean Prince. This discussion dealt with a Code of Ethics for this Association. This was followed by a panel on grievance committee procedure.

Vice-President David W. Robinson presided and acted as Moderator. This panel gave a very enlightened discussion of the grievance committee procedure. This panel was composed of J. Edwin Belser of Columbia, Chairman of the Association's Grievance Committee, W. H. Arnold of Greenville, J. Carl Kearse of Bamberg, S. Augustus Black of Columbia, G. G. Dowling of Beaufort, John D. Nock of Cheraw, and J. Means McFadden of Columbia.

This committee has received the wholehearted and very able assistance of Dean Samuel M. Prince, Director of Institutes and of William F. Prioleau, Jr., Secretary of the Association. Without the cooperation of these men, the work of this committee would have been increased a thousandfold. Their assistance made the task of this committee an easy one and this Association owes these gentlemen a rising vote of thanks as a small expression of its gratitude.

The two institutes which have been put on this year have been composed of the finest panelists that could have been obtained anywhere in the United States. In spite of this, however, and although the institutes have been well advertised, the attendance of the lawyers in the state has not been what it should have been. We are not discouraged by the attendance at the institutes, but we are firmly of the opinion that all of the lawyers in the state would derive some benefit by their active participation in and support of the future institutes which will be held.

Respectfully submitted,

Committee on Institutes,
Symposiums and Seminars
JOHN W. THOMAS, Columbia
Chairman
VIRGIL Q. COX, Greer
T. K. MCDONALD, Winnsboro
D. W. GREEN, JR., Conway
W. J. MCLEOD, JR., Walterboro
CHARLES H. GIBBS, Charleston
ANDREW BERRY, Orangeburg
R. E. BROWNE, III, Spartanburg
GARY BROWN, Abbeville
EARL M. RICE, Anderson
WILLIAM H. DUNCAN, W. Columbia
MARION L. POWELL, Aiken
S. K. NASH, Sumter
W. F. STEVENSON, Bennettsville

J. Edwin Belser of Columbia made a motion commending the committee, which was seconded by Alva M. Lumpkin of Columbia and carried.

President Mays then called upon Secretary Prioleau to read the report of the Public Information Committee.

MR. PRIOLEAU:

The previously declared policy of this committee is, *first,* to inform our members and stimulate their activity regarding Association work; *second,* to interest non-member lawyers in the work of the Association; *third,* to educate the public about our judicial system; and *fourth,* to build a good opinion of our profession in the minds of the public.

In furtherance of this policy, during the year, your committee has sought to encourage, and cooperate with, the staff of the *NEWS BULLETIN.* This publication had a most successful second year under the editorship of Mr. Irvine F. Belser, Jr., who will make a separate report. The *NEWS BULLETIN* is mailed to every lawyer in the state, thus providing coverage of the *first* and *second* points under our policy.

Public education about our judicial system has been furthered by continued showings of our film "With Benefit of Counsel" and by televising the film "Decision for Justice," released to us by the American Bar Association. Both of these are excellent films which have been very well received.

Respecting the *fourth* point in our policy, considerable planning has been done looking toward revival of the "What's the Law?" television show which ran for 18 months prior to last year. Committee personnel have met with groups in Charleston, Columbia, and Anderson who are interested in promoting such programs in those areas. While no programs have yet been televised, interest is keen and we are very hopeful of seeing Association sponsored shows on television again in the near future.

Respectfully submitted,

R. B. HERBERT, JR., *Chairman*
Committee on Public Information

The Chair recognized J. Austin Latimer of Washington, D. C., who commended the Association on its publications: the *NEWS BULLETIN* and the *SOUTH CAROLINA LAW QUARTERLY.*

The report of the *NEWS BULLETIN* Sub-committee was submitted by Irvine F. Belser, Jr. of Columbia as follows:

MR. BELSER:

On May 31, 1955 the undersigned editor of the South Carolina Bar Association *NEWS BULLETIN* was appointed by Bar Association President Calhoun A. Mays as chairman of a subcommittee of the Committee on Public Information and charged with responsibility for the composition, publication, and mailing of the *NEWS BULLETIN.* He was

given broad authority to recruit an appropriate staff, all located in Columbia for administrative convenience, and to publish an appropriate *NEWS BULLETIN* to disseminate news of the activities of the Association to its members, under the general supervision of the Chairman of the Committee on Public Information, Mr. R. Beverley Herbert, Jr. of Columbia. Pursuant to the said authority and with the initial advice and assistance of Mr. Herbert the editor selected a staff to assist him in the publication of the *NEWS BULLETIN*. The associate editors were as follows:

Dean Samuel L. Prince	Law School News
Gene V. Pruet	Local Bar Activities
E. Ellison Walker	Judiciary
William F. Prioleau, Jr.	Committee Activities
William H. Duncan	Institutes and Conferences
Allan E. Fulmer	Business and Advertising

These associate editors cooperated fully and enthusiastically with the editor and were of great assistance throughout the year. The editor wishes to include in this report his thanks and appreciation for their help and cooperation.

During the eleven months since the 1955 annual state convention four issues of the *NEWS BULLETIN* have been published. The September issue was mailed during the latter part of September 1955 and was devoted primarily to the organization of the Bar Association for the coming year and to news which had occurred since the annual convention in May. The November issue was mailed approximately November 30th and was devoted principally to the institute on labor law held in Charleston and Greenville on December 15 and 16, 1955. The February issue was mailed approximately February 1st and was devoted principally to the institute on grievances and professional ethics held in Columbia on February 25th. The March issue was mailed on March 31st and dealt principally with the annual convention to be held in Spartanburg April 6th and 7th.

In the publication of the *NEWS BULLETIN* during the past year it was the aim of the editor and staff to keep the members of the Association informed as to its annual state convention and quarterly meetings, institutes sponsored by the Association, the Law School, changes and assignments among members of the State and Federal judiciary, noteworthy projects and activities of the county and city bar associations, and other similar meetings. No effort was made to manufacture news or to fill up an enlarged *BULLETIN* with news of only dubious interest. There was no intention or desire on the part of the editor and staff to make the *NEWS BULLETIN* into a gossip column or chit-chat sheet nor to compete with the daily newspapers in publishing news of general lay interest, nor to invade the province of the *SOUTH CAROLINA LAW QUARTERLY* by publishing law notes, case summaries, or legal articles of a lengthy or scholarly nature. For the first time photographs were included in the *NEWS BULLETIN*, in the September, February, and March issues. It is felt that the photographs added greatly to the appearance and interest of the issues including such photographs.

No final policy as to the inclusion of advertisements in the *NEWS BULLETIN* was ever adopted. It was the tentative and initial policy of the editor and staff to accept advertisements only to the extent that they provided information of benefit or value to members of the Association in buying or selling law books, office equipment, and such items essential to the daily work of practicing lawyers and judges. No effort was made to solicit advertisements nor to turn the *NEWS BULLETIN* into a money making project. In line with this policy only two advertisements were accepted during the course of the year. These were from two practicing members of the bar who wished to obtain certain additions to their law libraries. Inquiries as to the possibility of inclusion of advertisements in the *NEWS BULLETIN* were received from a number of legal publishing houses, title insurance companies, and similar business establishments. It is believed that if such were the desire of the President and Executive Committee of the Bar Association, advertisements could be obtained with little effort to reduce the over-all cost to the Association of publication of the *BULLETIN*. The present editor and staff felt, however, that the inclusion of any considerable amount of commercial advertising would tend to lower the dignity and character of the *NEWS BULLETIN*.

All expenses incident to publication and mailing of the *NEWS BULLETIN* were paid by the Treasurer of the Association out of general Association funds. According to information obtained from the Treasurer, the net cost of publication and mailing of the *NEWS BULLETIN* for the four issues published during the past eleven months was $518.83. A detailed financial statement is printed below and made a part hereof. All four issues were printed by R. L. Bryan Company, Columbia, South Carolina, and addressed and mailed by The Letter Shop, Columbia, South Carolina. The Law School also assisted in the addressing of a portion of the copies of the September issue. Both the R. L. Bryan Company and The Letter Shop were most helpful and cooperative in the publication and mailing of all four issues and the editor and staff feel that these firms have done an excellent job for the *NEWS BULLETIN*.

Eighteen hundred copies were printed of each issue of the *BULLETIN*. Copies were mailed not only to members of the Association but also to all non-member lawyers and judges in the state of whom the Secretary had knowledge. Copies were also mailed to an increasingly large number of other bar associations, law libraries, and similar agencies.

The mailing list averaged approximately sixteen hundred copies. The remaining copies were used for special requests, historical purposes and to fill future requests for copies.

While all comments made to the editor and staff of the *NEWS BULLETIN* have been almost unanimously favorable the editor and staff feel that they have been too close to the active work of publication of the *NEWS BULLETIN* to evaluate impartially its usefulness and value to the Association. It is our strong feeling, however, that the *NEWS BULLETIN* does serve a highly useful and beneficial purpose in the operations and activities of the Association. They very much hope that it will be continued in the future, either in the present form or

in some enlarged or different form found to be preferable, to help the Bar Association play the larger and more significant role in the personal and professional lives of its members which it deserves.

FINANCIAL STATEMENT
SOUTH CAROLINA BAR ASSOCIATION
NEWS BULLETIN
1955 - 1956

Expenses:		
Printing		
September issue	$ 88.49	
November issue	64.27	
February issue	64.27	
March issue	154.50	$371.53
Addressing & Mailing		
September issue	$ 28.86	
November issue	41.02	
February issue	39.10	
March issue	37.29	
Bulk Mailing Permit	10.00	156.27
Miscellaneous		
Charles Old Studio		
Print of Photograph of D. W. Robinson		1.03
TOTAL EXPENSES		$528.83
Receipts:		
Accounts Receivable (for advertisements)	$ 10.00	10.00
NET EXPENSE		$518.83

The President explained that the report of the Committee on Legislation could not be presented at this time inasmuch as the legislature was still in session.

President Mays recognized Professor Coleman Karesh, Chairman of the Committee on the Annual Survey of South Carolina Law. Mr. Karesh reported that the work of his Committee will be continued without change, except that

hereafter the year covered will run from April 1 to April 1, which means that the Survey this year will include cases for only eleven months: from May 1, 1955 to April 1, 1956. This change is to assist the *LAW QUARTERLY* in meeting its publication deadline for the Fall issue.

The contributors and their subjects are as follows:

Coleman Karesh, Law School, *Wills and Administration of Estates; Trusts; Security Transactions.* W. H. Nicholson, Jr., Greenwood, *Workmen's Compensation.* Frank K. Sloan, Columbia, *Torts.* Charles H. Randall, Jr., Law School, *Contracts; Taxation; Miscellaneous.* David H. Means, Law School, *Property; Landlord and Tenant.* Wesley M. Walker, Greenville, *Insurance.* Douglas McKay, Jr., Columbia, *Practice and Procedure.* Robert W. Hemphill, Chester, *Criminal Law, Evidence and Procedure.* Edgar L. Morris, Jr., Columbia, *Evidence (Civil).* J. Fred Buzhardt, Jr., McCormick, *Damages; Statutory Construction and Legislative Process.* Robert E. Vandiver, Anderson, *Business Corporations; Partnership.* Huger Sinkler, Charleston, *Public Corporations; Constitutional Law.* T. M. Stubbs, Law School, *Equity; Pleadings.* James F. Dreher, Columbia, *Domestic Relations; Agency.* George Savage King, Law School, *Administrative Law.*

Mr. Scott, Chairman of the Committee on Ethics and Professional Responsibility, then presented the following report:

MR. SCOTT:

At the request of Hon. Calhoun A. Mays, President of the South Carolina Bar Association, this Committee has investigated the appropriateness of our association adopting the American Bar Association Canons of Ethics. Of considerable help to the Committee was the quarterly meeting of our association held in Columbia on February 25th at which time we were honored by having the Hon. Henry S. Drinker, Chairman of the Committee on Ethics of the American Bar as our speaker. This meeting disclosed that although our association has subscribed to the Canons of Professional Ethics of the American Bar Association, we had never formally adopted the same. The interest displayed by those present at the quarterly meeting convinced the members of your Committee that our association should formally adopt these canons or some others. A further study has shown that the majority of our states have not only adopted the American Bar Association Canons of Professional Ethics but that quite a few have done so on a prospective basis so that all future changes adopted by the American Bar would automatically be adopted by the State Bar. As most of the members of our State Bar are members of the American Bar this would avoid our serving under two different sets of rules. Your Committee feels, not only that we should have formally adopted standards of Professional Conduct, but that these should be the American Bar Association's Canons of Professional Ethics. Through the help of Dean Samuel Prince of the University

of South Carolina Law School, we have forwarded to the members of the South Carolina Bar Association copies of the American Bar's Canons of Professional Ethics in order for the members to familiarize themselves with it. After careful consideration the members of your Committee on Ethics and Professional Responsibility recommend that the South Carolina Bar Association adopt the American Bar Association's Canons of Professional Ethics as the Standards of Professional Conduct for its members.

JOHN M. SCOTT, *Chairman*
J. D. O'BRIAN
EUGENE BRYANT
Committee on Ethics and Professional Responsibility

Irvine F. Belser of Columbia stated that he favored the adoption of Canons of Ethics by our Association, but felt that we should carefully scrutinize the Canons of the American Bar Association to be sure that they did not conflict in any way and would be the proper canons for our Association. On motion of W. Brantley Harvey of Beaufort and Thomas H. Pope of Newberry it was ordered that the present canons be published in the Minutes of this meeting. (They are reprinted in **Appendix A** following these Minutes.)

President Mays called upon Mr. Belser, Chairman of the Grievance Committee, to give his report:

MR. BELSER:

In the performance of its duty in policing the Bar against "misconduct of the members of the Bar" (1952 Code Section 56-154) or "misconduct contrary to law" (Code Section 56-153) it has considered ten complaints embracing the following:

Two for breach of trust with fraudulent intent;
Failure to remit collections made;
Failure to prosecute divorce proceedings to speedy conclusion;
Refusal to split proceeds of damage suit with laymen;
Failure to file in due time claim in bankruptcy proceedings;
Erroneous advice as to result of divorce decree;
Failure of attorney to exert his best efforts in trial;
Exorbitant fees;
Failure of attorney to return muniments of title in case involving title by adverse possession.

Of the two complaints against members of the Bar (but who were not members of this Association) for breach of trust with fraudulent intent, one has been disbarred by the Supreme Court, and the other after hearing before the Grievance Committee, has recently consented to disbarment, which will no doubt follow in due course.

We are happy to say that in the opinion of the Committee the other complaints were, after investigation, found to be unjustified and were satisfactorily explained.

The afternoon of the Quarterly Meeting of the Association, held February 25, 1956 at the Russell House on the Campus of the University of South Carolina, was devoted to panel discussion by the Grievance Committee of Grievance Committee Procedure. Attention was directed by the Committee to differences in disciplinary procedure as provided by statutory law and by the Bar rules. The Grievance Committee now desires to direct the attention of the Association to such differences and to make certain suggestions for correction and correlation.

By the Statute (56-153) the Grievance Committee is constituted a Commission of Inquiry, with full power and authority, with or without the filing of a written complaint, to investigate on its own motion, or that of a majority of the Committee, as to existence of any probable cause against any member of the Bar as to conduct contrary to law, and to cite such member of the Bar to appear before it at such convenient place in the State to show cause why he should not be presented to the Supreme Court on such charges for disbarment or suspension. The Statute fails to provide the length of time notice shall be given the defendant prior to the date and place of hearing. The Committee may further summon all necessary witnesses and require the production of all papers and documents necessary in the investigation, with the right to the complainant and the respondent to be represented by counsel with the right to produce witnesses. The Committee, or a majority of those sitting in the investigation, if reasonable probability be found to exist for the charges made, shall turn over to the Clerk of the Supreme Court the record in such case for such action as the Court shall take thereon, and the Court shall notify the Attorney General and the Solicitor of the Circuit from which the case arises, so that they may appear before the Court as representatives of the State. The Attorney General and the Solicitor prepare the complaint and trial de novo is had before the Supreme Court.

Bar rules differentiate between the procedure for expulsion of members from the Association and their consequent disciplining by the Supreme Court and the procedure in relation to disciplining by the Court of non-members of the Association.

As to members of the Association, the Grievance Committee may consider only such matters of misconduct as shall be presented to the Committee by complaint in writing, and if the Committee be of the opinion that the matters therein alleged are of sufficient importance they may cause a copy of the complaint, together with not less than five days notice of the time and place when the Committee will meet for the consideration thereof, to be served upon both the complainant and the defendant. The plaintiff and the defendant may appear in person and by counsel. Counsel must be members of the Association. The Committee may summons witnesses and the testimony shall be taken in accordance with the rules and practice of the Courts of Common Pleas. The Committee, of whom at least five must be present at the trial, are empowered to hear and decide the case submitted to them. If the matters stated in the complaint are deemed by the Committee to be true they shall

so report to the Association with their recommendation as to the action to be taken, and the Association upon a vote of two-thirds of the members present and voting shall take such action on the report as the Association sees fit. If a member of the Association be expelled, the Executive Committee shall appoint two members of the Association to act as prosecutors, whose duty it shall be to take the steps necessary for disciplining the offending attorney by the Supreme Court. The Court notifies the Attorney General and the Solicitor of the Circuit from which the case arises. They draft a complaint, which is served upon the defendant, and a trial de novo is had before the Court.

The Bar rules require that five members must be present at any trial of any member of the Association. As the Grievance Committee consists of only five members the rules work for delay and hardship on the Committee. It is difficult to get the entire membership together when the members are widely scattered.

As to non-members of the Association, charges of unprofessional conduct or of fraud shall likewise be made in writing against the attorney and the Committee shall investigate the charges forthwith. The Grievance Committee is not empowered to make investigation on its own motion, as it is permitted to do by statute. If, in the opinion of the Committee the case is such that requires prosecution, though no hearing thereon is provided for or had, the Committee shall report to the Executive Committee, who shall appoint two members of the Association to act as prosecutors, whose duty it shall be to take the proper steps, as in the case of the members of the Association looking to the disciplining of the said attorney. As to non-members of the Association, there is no provision in its rules requiring (1) notice to the attorney against whom the charge may be made, or (2) a hearing, or (3) the appearance before the Committee of the defendant in person or by attorney.

It is the opinion of the Committee that the rules of the Association should be made to conform to the statutory law.

As the duty of determining the qualifications for admission of persons to the practice of law, as well as their disciplining rests with the Supreme Court, your Committee recommends:

That this Association (1) appoint a committee to confer with the Supreme Court relative to its formulation and adoption of rules and regulations providing for the investigation, hearing and determination by the Grievance Committee of any probable cause against any member of the Bar as to misconduct or conduct contrary to law; (2) increase the membership of the Grievance Committee to seven (7) members for a term staggered from one to seven years, with rotation of the chairmanship from year to year, and (3) vest the Grievance Committee with power and authority similar or equivalent to that of a Master in Equity to hear and determine all matters of fact properly coming before it, and to make recommendation as to disciplining, with the right of either the plaintiff or the defendant to appeal to the Supreme Court from the findings of fact and recommendations of the Committee, whose finding of fact shall be approved by the Supreme Court unless contrary to the preponderance of the evidence received at the hearing before the Grievance Committee. The object and purpose of this recommendation is to relieve the Supreme Court of the necessity of a trial of the de-

fendant de novo before it, as the statutory law now provides. And (4) that the Grievance Committee be authorized and empowered to employ an investigator to make preliminary inquiry as to the verity and seriousness of any charge made by any complaint against any member of the Bar, to the end that the Grievance Committee may be relieved of the necessity of its making such preliminary investigation. The hearing of charges would thus be expedited.

Respectfully submitted,

J. E. BELSER, *Chairman*
W. MARSHALL BRIDGES
G. G. DOWLING
JOHN D. NOCK
C. T. WYCHE
Grievance Committee of South Carolina Bar Association.

Action was deferred on this report in order that the recommendation of the Executive Committee could be considered at the same time.

Frank K. Sloan of Columbia, Chairman of the Committee on Procedural Law, gave the report of his Committee.

MR. SLOAN:

In response to the previously expressed desire of the Association, this committee has continued to concentrate its effort toward eventual modernization of civil procedure in the courts of this state. President Mays has contributed much by his great personal interest in the subject of Procedural and Law Reform.

In addition to the five regular members of the Committee, he appointed an advisory committee of 22 members of the Association who have been especially interested in the question of procedural reforms, among them Judge James M. Brailsford of the First Circuit and Dean Samuel L. Prince of the law school. In approaching a program as broad in scope as revising the rules of civil procedure, the aid of a large advisory committee is not only welcome but almost mandatory.

During this fall and winter the members of the advisory committee were invited to participate in two meetings of the general committee, and it is expected that they will be able to take the lead in their local associations in promoting the program of the Association in procedural reform.

The Committee found that demand for modernization of procedure in South Carolina courts is widespread, and it seems clear that at least some change is now closer than the distant horizon. The Committee received strong urging from many quarters that we address and recommend to the Association a campaign for all-out adoption of the federal rules for use in state court practice. It was also noted that, contrary to expectation, the more senior and experienced practitioners were equally enthusiastic with younger members of the bar in urging this

project. This enthusiasm is not unanimous, however; and modification of the federal rules to state practice would require careful consideration of details.

It was the conclusion of the Committee that its present efforts should be directed toward a program which would prepare the members of the bar for informed consideration of rules changes. This conclusion was reinforced by the opinion of many of the members that the establishment of a judicial council was a most desirable first step in any program of procedural reform.

Therefore the committee requested that Dean Prince and his staff at the law school commence work on preparation of a summary of present state and federal rules which could be printed in a brief, side-by-side column form for comparative study. It was further agreed that when this material was ready for printing and distribution that a request would be made of the Executive Committee for necessary funds to distribute the pamphlet to every member of the South Carolina Bar.

It is then proposed that the next Quarterly Meeting of the Association following the distribution of the study would be devoted to discussion and consideration of rules changes. Any recommendation the Association made as a result would then be addressed to the Chief Justice, to a judicial council if one is established, and to other appropriate persons. Then your committee would be in a position properly to turn its efforts directly to the promotion of any procedural changes recommended by the Association.

The principal aim of the Committee at this time is to develop an informed recommendation by the members of the Association at large on this subject; one that the Association members can vigorously support in seeking its adoption. Accordingly the Committee recommends to the Association:

1. Completing the preparation of a rule-by-rule comparative study of state and federal rules for distribution to members of the bar.

2. The furnishing from the treasury of the Association of sufficient funds to cover the cost of distribution and to aid in the cost of printing.

3. That the Quarterly Meeting of the Association for the fall of 1956 be devoted to a consideration of possible rules changes and the adoption of a specific recommendation on the subject.

4. That there be added to the advisory committee on Procedural and Law Reform such other members of the Association as are particularly interested in the subject.

For the information of the Association the membership of the present advisory committee is listed at the foot of this report.

Respectfully submitted,

FRANK K. SLOAN, *Chairman*
SOLOMON BLATT, JR.
THOMAS B. BUTLER
DAVID L. FREEMAN
MARION MOISE
Committee on Procedural and Law Reform.

ADVISORY MEMBERS

Hon. James M. Brailsford, Orangeburg
Howard L. Burns, Greenwood
Ernest B. Castles, Anderson
Roy C. Cobb, Gaffney
Joab M. Dowling, Beaufort
John E. Edens, Columbia
Frank B. Gary, Columbia
Edward R. Hamer, Greenville
Robert W. Hemphill, Chester
J. LaRue Hinson, Greenville
Walter H. Hood, Anderson
T. Eston Marchant, Jr., Columbia
Andrew B. Marion, Greenville
C. M. McCants, Columbia
John B. McCutcheon, Conway
L. W. Perrin, Jr., Spartanburg
Dean S. L. Prince, Columbia
Arthur Rittenburg, Charleston
Ben C. Thornton, Greenville
Chester P. Ward, Jr., Spartanburg
Howell A. Wilson, Lake City
E. Lloyd Willcox, Charleston

W. J. McLeod, Jr. of Walterboro moved that action on the report be deferred until after the Executive Committee reported. This was seconded by Irvine F. Belser and passed.

Mr. Busbee, Chairman of the Auditing Committee, reported as follows:

MR. BUSBEE:

The undersigned Auditing Committee, appointed by the President, have carefully gone over and audited the report of the Treasurer, and find that the same is in order, should be approved, and the Treasurer should be commended for his splendid service to the Bar Association.

JOHN GRIMBALL
DEROSSETT MYERS
HENRY BUSBEE, *Chairman.*

W. H. Arnold of Greenville moved the adoption of the report, which was seconded by Mr. Pritchard and duly passed.

An invitation to the Association to hold its annual meeting at Greenville in 1957 was extended by Mr. Arnold on behalf of the Greenville Bar. President Mays expressed appreciation for this invitation and asked that it be recorded as information and referred it to the Executive Committee.

Mr. Pope presented the report of the Committee on Judicial Administration.

MR. POPE:

A select Committee on Judicial Administration was appointed by the Executive Committee of the Bar Association on January 18, 1956. On January 29, your Committee met, heard from various invited guests and unanimously agreed that immediate steps should be taken to insure adequate salaries for Supreme Court Justices and Circuit Judges.

A Subcommittee was appointed to take the matter up with various

legislative leaders and this was done immediately, with the result that your Committee was advised that any salary raise during the 1956 session of the General Assembly was entirely out of the question. The legislative leaders agreed with your Committee that the present disparity between the salaries of United States District Judges and those of our State Judges was entirely too great and that something should be done. They further agreed that the present Constitutional prohibition against increasing or decreasing judicial salaries during a judge's term of office worked a hardship on some judges and was grossly unfair.

Your Committee accordingly decided that the first step to be taken toward equalizing judges' salaries within the State and toward lessening the difference between the salaries paid State Judges and United States Judges was to seek an amendment of the State Constitution to the end that while salaries could not be decreased during a term of office, there should be no prohibition against an increase.

Your Committee appeared before the Judiciary Committee of both the House and the Senate. With the help of Senator Marion Gressette, Chairman of the Senate Judiciary Committee, we were able to secure passage of the necessary resolution through the Senate but we were unable to get it favorably considered by the necessary two-thirds vote in the House.

Your Committee feels that the following steps should be taken toward the improvement of the administration of justice in South Carolina:

(1) That Section 9 of Article 5 of the State Constitution should be amended so as to permit the increase of compensation of judges during their continuance in office and that legislative action should be sought during the off-election year of 1957.

(2) That judicial salaries in South Carolina should be raised substantially.

(3) That members of the Supreme Court should be provided with law clerks.

(4) That a Judicial Council should be established as soon as possible.

(5) That the cost of litigation, particularly on appeal, should be reduced.

(6) That provisions should be made for a study of the calendars in all circuits of the State with a view to speeding up the trial of cases and eliminating present bottlenecks.

(7) That the Committee on Judicial Administration should be continued to carry out the foregoing.

Respectfully submitted,

THOMAS H. POPE, *Chairman*
C. GRANVILLE WYCHE
DOUGLAS MCKAY
RICHARD A. PALMER
W. J. MCLEOD
HUGER SINKLER
G. P. CALLISON
DAVID W. ROBINSON
EDWARD K. PRITCHARD

Sidney D. Duncan of Columbia moved that a special committee be appointed to study the redistribution of judicial circuits in South Carolina in an effort to equalize work loads and in order to alleviate the presently overworked dockets. Robert R. George of Columbia seconded the motion. After a brief discussion, the motion was referred to the Executive Committee.

President Mays then called upon Mr. Pritchard, Chairman of the Executive Committee, to present his report:

MR. PRITCHARD:

Membership and Finances

I am very happy to report that your Association is in an excellent condition as to finances and membership. It is frequently difficult to determine with exact mathematical certainty how many members we have at any given time, because this depends to some extent on the prompt payment of dues because of the rule about membership lapsing if payment is too long delayed. However, immediately prior to the annual meeting last year, we had, as closely as we can determine, 662 paid-up members, and, at this time, we have 762 paid-up members. The Executive Committee is very proud of this gain of one hundred members during the year, and we feel that the Association will very soon have a membership of over one thousand.

The Report of the Secretary and Treasurer shows that, after the payment of all expenses during the year, we have a cash balance in excess of $5,000.00, which is ample for all present needs of the Association.

Quarterly Meetings

During the year, two quarterly meetings were held. The first of these was an Institute on Labor Relations Law. This is a subject of increasing importance to all practising attorneys, and, in order to give everyone an opportunity to attend without undue inconvenience, it was held in Charleston on December 15th, and in Greenville on December 16th. The panel consisted of Mr. Herbert S. Thatcher, former General Counsel of the American Federation of Labor, Mr. John C. Gall, former General Counsel of the National Association of Manufacturers, Mr. Philip Ray Rodgers, Acting Chairman of the National Labor Relations Board, supervised by Mr. George King, of the University of South Carolina Law School faculty, with a panel discussion moderated by Mr. Ellison D. Smith, Jr., formerly associated with the National Labor Relations Board. It is the opinion of your Committee that it would have been impossible to secure a better panel if we had searched the world over; we had the top man in the labor field, the top man in the field of employers, and the chairman of the highest tribunal on the subject. Professor King and Mr. Ellison D. Smith, Jr., also contributed materially, and your Executive Committee feels that this was one of the best Institutes that we have ever had.

The other quarterly meeting was held in Columbia on February 25th, at which time, the Honorable Henry S. Drinker, Chairman of the Committee on Ethics, of the American Bar Association, was the featured speaker.

Committee on Judicial Administration

Your Executive Committee is very proud of the fact that, during the year, we set up a Committee on Judicial Administration under the able Chairmanship of Tom Pope. The members of your Association have long felt that something should be done to correct the tremendous discrepancy between the salaries of the Judges and Justices in South Carolina and Judges and Justices in other States and in the Federal Judiciary. Our Judges and Justices are paid $12,000 annually, while the United States District Judges are paid $22,500. The members of your Executive Committee felt, and feel, that the work our Circuit Judges and our Supreme Court Justices do, and the responsibilities of their positions, thoroughly warrants and justifies a substantial increase in salary.

Moreover, we feel that the constitutional provision against increasing the salary of the Judge during his term of office often leads to absurd results, and should be repealed. It is bad enough in the case of a Circuit Judge who is elected for four years, but it is utterly unreasonable in the case of a Supreme Court Justice who is elected for a ten-year term.

The Committee made every effort to see about salary increases, but when this was found to be impossible at this time, an amendment to the Constitution was proposed so as to make it possible for Judges' salaries to be increased during their term of office. This passed the Senate but bogged down in the House.

Your Executive Committee recommends that this Committee on Judicial Administration be kept in existence, and continue its efforts to obtain salary increases for the Judges and Justices, and to have the constitutional prohibition against salary increases during their terms of office eliminated from the Constitution.

We also recommend that they have as their objective obtaining law clerks for the Supreme Court Justices and secretaries for the Circuit Judges, and that, in general, they do everything they can to help the cause of judicial administration. We also urge every member of this Association to back up this Committee in every way and, particularly, by interviewing candidates for the State Legislature, and urging upon them the advisability and necessity of our program.

American Bar Association

Your Executive Committee feels that there would be more interest in the activities of the American Bar Association, and there would be an increase in membership from South Carolina if the programs were of more general interest to the general practitioner, and if the period in which any individual could serve in the House of Delegates were limited. We will therefore propose a Resolution to those ends.

Committee on Ethics

Your Committee on Ethics has worked diligently during the year,

and has made a splendid report which has been mailed out to every member of the Association. After the conclusion of this report, the recommendations of that Committee will be presented to this meeting by me on behalf of the Executive Committee for adoption as Resolutions.

Grievance Committee

The Grievance Committee has also submitted a splendid report, and has made a number of recommendations, and your Executive Committee feels that it is essential that some of its recommendations be adopted at this meeting. Therefore, after the conclusion of this report, I will offer certain Resolutions on behalf of the Executive Committee to substantially carry out their report.

Other Activities

Chief Justice D. Gordon Baker retired in February 1956, and on February 16th, which was the last day he served as Chief Justice, your Bar Association arranged for exercises in the Supreme Court room, at which time adequate tribute was paid to him and to his years of service on the Bench, and a silver pitcher, suitably engraved, was presented to him by your Association.

On February 22nd, 1956, your Association held a reception in Columbia to honor the new Chief Justice, Taylor H. Stukes, and the newly elected Associate Justice, Joseph R. Moss.

South Carolina Law Quarterly

The *South Carolina Law Quarterly* has continued to be a source of pride to your Association. Each issue contains excellent articles of immense practical value to every lawyer, and we sincerely urge all of the lawyers to make it a habit to read each issue as it comes out. It is our belief that the *South Carolina Law Quarterly* is at least the equal of any other such publication in America.

News Bulletin

Irvine F. Belser, Jr., the Editor of the South Carolina Bar Association *NEWS BULLETIN*, deserves the thanks of the Association for his excellent work in publishing this Bulletin. This publication goes to all the attorneys in South Carolina, and has kept all of us up-to-date on the activities of your Association. The Executive Committee feels that this is thoroughly worthwhile, and we recommend that it be continued, and commend the Editor and his Committee for the excellence of the job they are doing.

New Secretary

During the year, William F. Prioleau, Jr., Esquire, widely known as Buddy Prioleau, took over the duties of Secretary and Treasurer. He has been most effective and helpful, and, as Chairman of the Executive Committee, I would like to state that my job was made easy through his untiring cooperation.

Conclusion

Your Association is growing in membership, strength and influence. Your Executive Committee has made every effort to make the Association stand for something, and to be helpful to all attorneys throughout

the State. My year as Chairman of the Executive Committee has been a happy one. It was a splendid Committee with which I had the honor of serving. They have all been most helpful and cooperative. Attendance at all meetings has been excellent, and I wish to express my sincere and hearty thanks to all of those who have served with me and whose efforts, far more than my own, have made this an excellent year for your Association.

EDWARD K. PRITCHARD, *Chairman*
CALHOUN A. MAYS
DAVID W. ROBINSON
S. AUGUSTUS BLACK
THOMAS H. POPE
HUGH L. WILLCOX
SAMUEL L. PRINCE
Executive Committee

Mr. Pritchard moved the adoption of the present Canons of Professional Ethics of the American Bar Association as canons for the South Carolina Bar Association. This motion was seconded by Mr. Pope and carried.

Mr. Pritchard then moved that the Association recommend to the South Carolina Supreme Court that the Court prescribe by rule these Canons of Professional Ethics as the standards for all lawyers practicing in South Carolina. This motion was seconded by Mr. Pope and carried.

Repeal of the Association's rules dealing with the discipline of its members so that the statutory procedure may be applicable to all lawyers alike, whether members of the Association or not, was moved by Mr. Pritchard. This motion was seconded by Mr. Butler and carried.

Mr. Butler then moved that the Association name the Grievance Committee to confer with the Supreme Court relative to the formulation and adoption of rules and statutes dealing with the work of the Grievance Committee. This motion carried.

Mr. Pritchard moved that membership of the Grievance Committee be increased to nine, with staggered terms providing that each member serve three years.

After an extended discussion participated in by Messrs. S. Augustus Black of Columbia, W. Brantley Harvey, W. H. Arnold, Frank H. Bailey, Thomas B. Butler, Sam P. Manning of Spartanburg and Frank P. McGowan of Columbia, Mr. Butler moved that the motion be amended so that the

membership of the Grievance Committee would remain at five. This proposed amendment of the motion was defeated.

After further discussion participated in by Albert W. Watson of Columbia, J. Fred Buzhardt of McCormick, and J. Edwin Belser, James B. Murphy of Columbia moved that the pending motion by Mr. Pritchard, "that the membership of the Grievance Committee be increased to nine, with staggered terms providing that each member serve three years," be adopted. The motion was seconded by Mr. McGowan and Mr. Arnold and unanimously carried.

Mr. Pritchard then moved that the Committee on Judicial Administration now headed by Mr. Pope be continued. This motion was seconded by Mr. Gary and carried.

That a Judicial Council be set up in South Carolina was moved by Mr. Pritchard. This motion was seconded by Mr. Sloan and carried.

Mr. Pritchard moved that in the future the Standing Committees be named in advance of the annual meeting by the outgoing Executive Committee. This was seconded by Mr. Willcox and carried.

Mr. Pritchard moved that the South Carolina Bar Association recommend to the American Bar Association (1) that it more broadly distribute the responsibilities and duties of the American Bar Association so that a substantially larger number of lawyers from each of the states will have an opportunity to actively participate in the Association's program, to that end, to limit the period in which any individual may serve in the House of Delegates; (2) that it fashion the programs of the annual meeting to the needs of the general practitioner, and (3) that it also recommend to the American Bar Association that it study and make recommendations to the President of the United States as to some method whereby there may be selected as Justices of the United States Supreme Court men with backgrounds reflecting substantial experience in the private practice of law and the feasibility of encouraging the appointment of men with previous judicial experience.

Jesse W. Boyd of Spartanburg moved that paragraph (2) of the motion be amended to include programs of the re-

gional meetings as well. T. Sam Means, Jr. of Spartanburg seconded the motion as amended and the motion carried.

The business meeting recessed for luncheon in the Spartanburg Municipal Auditorium at which the Honorable E. Smythe Gambrell of Atlanta, President of the American Bar Association, delivered an address. Mr. Gambrell was introduced by Past President T. Frank Watkins of Anderson.

Saturday Afternoon

During the afternoon there was a garden tour provided for the ladies, followed by a tea at the home of Judge and Mrs. Bruce Littlejohn.

Later in the afternoon the members and their ladies were entertained with a party at the home of Mr. and Mrs. Thomas A. Evins.

The annual meeting of the Association was closed with a banquet which honored the new Chief Justice, Taylor H. Stukes, and new Associate Justice, Joseph R. Moss, of the Supreme Court and new Judge, George T. Gregory, of the Sixth Circuit. Each of the honor guests made appropriate remarks which were exceedingly well received by an appreciative audience.

Meanwhile the ladies were entertained with a dinner and fashion show at the Spartanburg Country Club, after which the members rejoined the ladies for an informal party at the Country Club.

ADJOURNMENT.

APPENDIX A
South Carolina Bar Association
Canons of Professional Ethics

Preamble

In America, where the stability of Courts and of all departments of government rests upon the approval of the people, it is peculiarly essential that the system for establishing and dispensing Justice be developed to a high point of efficiency and so maintained that the public shall have absolute confidence in the integrity and impartiality of its administration. The future of the Republic, to a great extent, depends upon our maintenance of Justice pure and unsullied. It cannot be so maintained unless the conduct and the motives of the members of our profession are such as to merit the approval of all just men.

No code or set of rules can be framed, which will particularize all the duties of the lawyer in the varying phases of litigation or in all the relations of professional life. The following canons of ethics are adopted by the South Carolina Bar Association as a general guide, yet the enumeration of particular duties should not be construed as a denial of the existence of others equally imperative, though not specifically mentioned.

1. *The Duty of the Lawyer to the Courts*

It is the duty of the lawyer to maintain towards the Courts a respectful attitude, not for the sake of the temporary incumbent of the judicial office, but for the maintenance of its supreme importance. Judges, not being wholly free to defend themselves, are peculiarly entitled to receive the support of the Bar against unjust criticism and clamor. Whenever there is proper ground for serious complaint of a judicial officer, it is the right and duty of the lawyer to submit his grievances to the proper authorities. In such cases, but not otherwise, such charges should be encouraged and the person making them should be protected.

2. *The Selection of Judges*

It is the duty of the Bar to endeavor to prevent political considerations from outweighing judicial fitness in the selections of Judges. It should protest earnestly and actively against the appointment or election of those who are unsuitable for the Bench; and it should strive to have elevated thereto only those willing to forego other employments, whether of a business, political or other character, which may embarrass their free and fair consideration of questions before them for decision. The aspiration of lawyers for judicial position should be governed by an impartial estimate of their ability to add honor to the office and not by a desire for the distinction the position may bring to themselves.

3. *Attempts to Exert Personal Influence on the Court*

Marked attention and unusual hospitality on the part of a lawyer to a Judge, uncalled for by the personal relations of the parties, subject both the Judge and the lawyer to misconstructions of motive and should

be avoided. A lawyer should not communicate or argue privately with the Judge as to the merits of a pending cause, and he deserves rebuke and denunciation for any device or attempt to gain from a Judge special personal consideration or favor. A self-respecting independence in the discharge of professional duty, without denial or diminution of the courtesy and respect due the Judge's station, is the only proper foundation for cordial personal and official relations between Bench and Bar.

4. *When Counsel for an Indigent Prisoner*

A lawyer assigned as counsel for an indigent prisoner ought not to ask to be excused for any trivial reason, and should always exert his best efforts in his behalf.

5. *The Defense or Prosecution of Those Accused of Crime*

It is the right of the lawyer to undertake the defense of a person accused of crime, regardless of his personal opinion as to the guilt of the accused; otherwise innocent persons, victims only of suspicious circumstances, might be denied proper defense. Having undertaken such defense, the lawyer is bound, by all fair and honorable means, to present every defense that the law of the land permits, to the end that no person may be deprived of life or liberty, but by due process of law.

The primary duty of a lawyer engaged in public prosecution is not to convict, but to see that justice is done. The suppression of facts or the secreting of witnesses capable of establishing the innocence of the accused is highly reprehensible.

6. *Adverse Influences and Conflicting Interests*

It is the duty of a lawyer at the time of retainer to disclose to the client all the circumstances of his relations to the parties, and any interest in or connection with the controversy, which might influence the client in the selection of counsel.

It is unprofessional to represent conflicting interests, except by express consent of all concerned given after a full disclosure of the facts. Within the meaning of this canon, a lawyer represents conflicting interests when, in behalf of one client, it is his duty to contend for that which duty to another client requires him to oppose.

The obligation to represent the client with undivided fidelity and not to divulge his secrets or confidences forbids also the subsequent acceptance of retainers or employment from others in matters adversely affecting any interest of the client with respect to which confidence has been reposed.

7. *Professional Colleagues and Conflicts of Opinion*

A client's proffer of assistance of additional counsel should not be regarded as evidence of want of confidence, but the matter should be left to the determination of the client. A lawyer should decline association as colleague if it is objectionable to the original counsel, but if the lawyer first retained is relieved, another may come into the case.

When lawyers jointly associated in a cause cannot agree as to any matter vital to the interest of the client, the conflict of opinion should be frankly stated to him for his final determination. His decision should be

accepted unless the nature of the difference makes it impracticable for the lawyer whose judgment has been overruled to co-operate effectively. In this event it is his duty to ask the client to relieve him.

Efforts, direct or indirect, in any way to encroach upon the professional employment of another lawyer, are unworthy of those who should be brethren at the Bar; but, nevertheless, it is the right of any lawyer, without fear or favor, to give proper advice to those seeking relief against unfaithful or neglectful counsel, generally after communication with the lawyer of whom the complaint is made.

8. *Advising Upon the Merits of a Client's Cause*

A lawyer should endeavor to obtain full knowledge of his client's cause before advising thereon, and he is bound to give a candid opinion of the merits and probable result of pending or contemplated litigation. The miscarriages to which justice is subject, by reason of surprises and disappointments in evidence and witnesses, and through mistakes of juries and errors of Courts, even though only occasional, admonish lawyers to beware of bold and confident assurances to clients, especially where the employment may depend upon such assurance. Whenever the controversy will admit of fair judgment, the client should be advised to avoid or to end the litigation.

9. *Negotiations With Opposite Party*

A lawyer should not in any way communicate upon the subject of controversy with a party represented by counsel; much less should he undertake to negotiate or compromise the matter with him, but should deal only with his counsel. It is incumbent upon the lawyer most particularly to avoid everything that may tend to mislead a party not represented by counsel, and he should not undertake to advise him as to the law.

10. *Acquiring Interest in Litigation*

The lawyer should not purchase any interest in the subject matter of the litigation which he is conducting.

11. *Dealing With Trust Property*

The lawyer should refrain from any action whereby for his personal benefit or gain he abuses or takes advantage of the confidence reposed in him by his client.

Money of the client or collected for the client or other trust property coming into the possession of the lawyer should be reported and accounted for promptly, and should not under any circumstances be commingled with his own or be used by him.

12. *Fixing the Amount of the Fee*

In fixing fees, lawyers should avoid charges which overestimate their advice and services, as well as those which undervalue them. A client's ability to pay cannot justify a charge in excess of the value of the service, though his poverty may require a less charge, or even none at all. The reasonable requests of brother lawyers, and of their widows and orphans without ample means, should receive special and kindly consideration.

In determining the amount of the fee, it is proper to consider: (1) the time and labor required, the novelty and difficulty of the questions involved and the skill requisite properly to conduct the cause; (2) whether the acceptance of employment in the particular case will preclude the lawyer's appearance for others in cases likely to arise out of the transaction, and in which there is a reasonable expectation that otherwise he would be employed, or will involve the loss of other employment while employed in the particular case or antagonisms with other clients; (3) the customary charges of the Bar for similar services; (4) the amount involved in the controversy and the benefits resulting to the client from the services; (5) the contingency or the certainty of the compensation; and (6) the character of the employment, whether casual or for an established and constant client. No one of these considerations in itself is controlling. They are mere guides in ascertaining the real value of the service.

In determining the customary charges of the Bar for similar services, it is proper for a lawyer to consider a schedule of minimum fees adopted by a Bar Association, but no lawyer should permit himself to be controlled thereby or to follow it as his sole guide in determining the amount of his fee.

In fixing fees it should never be forgotten that the profession is a branch of the administration of justice and not a mere money-getting trade.

13. *Contingent Fees*

A contract for a contingent fee, where sanctioned by law, should be reasonable under all the circumstances of the case, including the risk and uncertainty of the compensation, but should always be subject to the supervision of a court, as to its reasonableness.

14. *Suing a Client for a Fee*

Controversies with clients concerning compensation are to be avoided by the lawyer so far as shall be compatible with his self-respect and with his right to receive reasonable recompense for his services; and lawsuits with clients should be resorted to only to prevent injustice, imposition or fraud.

15. *How Far a Lawyer May Go in Supporting a Client's Cause*

Nothing operates more certainly to create or to foster popular prejudice against lawyers as a class, and to deprive the profession of that full measure of public esteem and confidence which belongs to the proper discharge of its duties than does the false claim, often set up by the unscrupulous in defense of questionable transactions, that it is the duty of the lawyer to do whatever may enable him to succeed in winning his client's cause.

It is improper for a lawyer to assert in argument his personal belief in his client's innocence or in the justice of his cause.

The lawyer owes "entire devotion to the interest of the client, warm zeal in the maintenance and defense of his rights and the exertion of his utmost learning and ability," to the end that nothing be taken or be withheld from him, save by the rules of law, legally applied. No fear of

judicial disfavor or public unpopularity should restrain him from the full discharge of his duty. In the judicial forum the client is entitled to the benefit of any and every remedy and defense that is authorized by the law of the land, and he may expect his lawyer to assert every such remedy or defense. But it is steadfastly to be borne in mind that the great trust of the lawyer is to be performed within and not without the bounds of the law. The office of attorney does not permit, much less does it demand of him for any client, violation of law or any manner of fraud or chicane. He must obey his own conscience and not that of his client.

16. *Restraining Clients from Improprieties*

A lawyer should use his best efforts to restrain and to prevent his clients from doing those things which the lawyer himself ought not to do, particularly with reference to their conduct towards Courts, judicial officers, jurors, witnesses and suitors. If a client persists in such wrongdoing the lawyer should terminate their relation.

17. *Ill-Feeling and Personalities Between Advocates*

Clients, not lawyers, are the litigants. Whatever may be the ill-feeling existing between clients, it should not be allowed to influence counsel in their conduct and demeanor toward each other or toward suitors in the case. All personalities between counsel should be scrupulously avoided. In the trial of a cause it is indecent to allude to the personal history or the personal peculiarities and idiosyncrasies of counsel on the other side. Personal colloquies between counsel which cause delay and promote unseemly wrangling should also be carefully avoided.

18. *Treatment of Witnesses and Litigants*

A lawyer should always treat adverse witnesses and suitors with fairness and due consideration, and he should never minister to the malevolence or prejudices of a client in the trial or conduct of a cause. The client cannot be made the keeper of the lawyer's conscience in professional matters. He has no right to demand that his counsel shall abuse the opposite party or indulge in offensive personalities. Improper speech is not excusable on the ground that it is what the client would say if speaking in his own behalf.

19. *Appearance of Lawyer as Witness for His Client*

When a lawyer is a witness for his client, except as to merely formal matters, such as the attestation or custody of an instrument and the like, he should leave the trial of the case to other counsel. Except when essential to the ends of justice, a lawyer should avoid testifying in court in behalf of his client.

20. *Newspaper Discussion of Pending Litigation*

Newspaper publications by a lawyer as to pending or anticipated litigation may interfere with a fair trial in the Courts and otherwise prejudice the due administration of justice. Generally they are to be condemned. If the extreme circumstances of a particular case justify a statement to the public, it is unprofessional to make it anonymously. An

ex parte reference to the facts should not go beyond quotation from the records and papers on file in the court; but even in extreme cases it is better to avoid any *ex parte* statement.

21. *Punctuality and Expedition*

It is the duty of the lawyer not only to his client, but also to the Courts and to the public to be punctual in attendance, and to be concise and direct in the trial and disposition of causes.

22. *Candor and Fairness*

The conduct of the lawyer before the Court and with other lawyers should be characterized by candor and fairness.

It is not candid or fair for the lawyer knowingly to misquote the contents of a paper, the testimony of a witness, the language or the argument of opposing counsel, or the language of a decision or a textbook; or with knowledge of its invalidity, to cite as authority a decision that has been overruled, or a statute that has been repealed; or in argument to assert as a fact that which has not been proved, or in those jurisdictions where a side has the opening and closing arguments to mislead his opponent by concealing or withholding positions in his opening argument upon which his side then intends to rely.

It is unprofessional and dishonorable to deal other than candidly with the facts in taking the statements of witnesses, in drawing affidavits and other documents, and in the presentation of causes.

A lawyer should not offer evidence which he knows the Court should reject, in order to get the same before the jury by argument for its admissibility, nor should he address to the Judge arguments upon any point not properly calling for determination by him. Neither should he introduce into an argument, addressed to the court, remarks or statements intended to influence the jury or bystanders.

These and all kindred practices are unprofessional and unworthy of an officer of the law charged, as is the lawyer, with the duty of aiding in the administration of justice.

23. *Attitude Toward Jury*

All attempts to curry favor with juries by fawning, flattery or pretended solicitude for their personal comfort are unprofessional. Suggestions of counsel, looking to the comfort or convenience of jurors, and propositions to dispense with argument, should be made to the Court out of the jury's hearing. A lawyer must never converse privately with jurors about the case; and both before and during the trial he should avoid communicating with them, even as to matters foreign to the cause.

24. *Right of Lawyer to Control the Incidents of the Trial*

As to incidental matters pending the trial, not affecting the merits of the cause, or working substantial prejudice to the rights of the client, such as forcing the opposite lawyer to trial when he is under affliction or bereavement; forcing the trial on a particular day to the injury of the opposite lawyer when no harm will result from a trial at a different time; agreeing to an extension of time for signing a bill of exceptions,

cross interrogatories and the like, the lawyer must be allowed to judge. In such matters no client has a right to demand that his counsel shall be illiberal, or that he do anything therein repugnant to his own sense of honor and propriety.

25. *Taking Technical Advantage of Opposite Counsel; Agreements With Him*

A lawyer should not ignore known customs or practice of the Bar or of a particular Court, even when the law permits, without giving timely notice to the opposing counsel. As far as possible, important agreements, affecting the rights of clients, should be reduced to writing; but it is dishonorable to avoid performance of an agreement fairly made because it is not reduced to writing, as required by rules of Court.

26. *Professional Advocacy Other Than Before Courts*

A lawyer openly, and in his true character may render professional services before legislative or other bodies, regarding proposed legislation and in advocacy of claims before departments of government, upon the same principles of ethics which justify his appearance before the Courts; but it is unprofessional for a lawyer so engaged to conceal his attorneyship, or to employ secret personal solicitations, or to use means other than those addressed to the reason and understanding, to influence action.

27. *Advertising, Direct or Indirect*

It is unprofessional to solicit professional employment by circulars, advertisements, through touters or by personal communications or interviews not warranted by personal relations. Indirect advertisements for professional employment such as furnishing or inspiring newspaper comments, or procuring his photograph to be published in connection with causes in which the lawyer has been or is engaged or concerning the manner of their conduct, the magnitude of the interest involved, the importance of the lawyer's position, and all other like self-laudation, offend the traditions and lower the tone of our profession and are reprehensible; but the customary use of simple professional cards is not improper.

Publication in reputable law lists in a manner consistent with the standards of conduct imposed by these canons of brief biographical and informative data is permissible. Such data must not be misleading and may include only a statement of the lawyer's name and the names of his professional associates; addresses, telephone numbers, cable addresses; branches of the profession practiced; date and place of birth and admission to the bar; schools attended, with dates of graduation, degrees and other educational distinctions; public or quasi-public offices; posts of honor; legal authorships; legal teaching positions; memberships and offices in bar associations and committees thereof, in legal and scientific societies and legal fraternities; the fact of listings in other reputable law lists; the names and addresses of references; and, with their written consent, the names of clients regularly represented. A certificate of compliance with the Rules and Standards issued by the Standing Committee on Law Lists may be treated as evidence that such list is reputable.

It is not improper for a lawyer who is admitted to practice as a proctor in admiralty to use that designation on his letterhead or shingle or for a lawyer who has complied with the statutory requirements of admission to practice before the patent office to so use the designation "patent attorney" or "patent lawyer" or "trade-mark attorney" or "trade-mark lawyer" or any combination of those terms.

28. *Stirring Up Litigation, Directly or Through Agents*

It is unprofessional for a lawyer to volunteer advice to bring a lawsuit, except in rare cases where ties of blood, relationship or trust make it his duty to do so. Stirring up strife and litigation is not only unprofessional, but it is indictable at common law. It is disreputable to hunt up defects in titles or other causes of action and inform thereof in order to be employed to bring suit or collect judgment, or to breed litigation by seeking out those with claims for personal injuries or those having any other grounds of action in order to secure them as clients, or to employ agents or runners for like purposes, or to pay or reward, directly or indirectly, those who bring or influence the bringing of such cases to his office, or to remunerate policemen, court or prison officials, physicians, hospital *attaches* or others who may succeed, under the guise of giving disinterested friendly advice, in influencing the criminal, the sick and the injured, the ignorant or others, to seek his professional services. A duty to the public and to the profession devolves upon every member of the Bar having knowledge of such practices upon the part of any practitioner immediately to inform thereof, to the end that the offender may be disbarred.

29. *Upholding the Honor of the Profession*

Lawyers should expose without fear or favor before the proper tribunals corrupt or dishonest conduct in the profession, and should accept without hesitation employment against a member of the Bar who has wronged his client. The counsel upon the trial of a cause in which perjury has been committed owe it to the profession and to the public to bring the matter to the knowledge of the prosecuting authorities. The lawyer should aid in guarding the Bar against the admission to the profession of candidates unfit or unqualified because deficient in either moral character or education. He should strive at all times to uphold the honor and to maintain the dignity of the profession and to improve not only the law but the administration of justice.

30. *Justifiable and Unjustifiable Litigations*

The lawyer must decline to conduct a civil cause or to make a defense when convinced that it is intended merely to harass or to injure the opposite party or to work oppression or wrong. But otherwise it is his right, and, having accepted retainer, it becomes his duty to insist upon the judgment of the Court as to the legal merits of his client's claim. His appearance in Court should be deemed equivalent to an assertion on his honor that in his opinion his client's case is one proper for judicial determination.

31. *Responsibility for Litigation*

No lawyer is obliged to act either as adviser or advocate for every person who may wish to become his client. He has the right to decline

employment. Every lawyer upon his own responsibility must decide what employment he will accept as counsel, what causes he will bring into Court for plaintiffs, what cases he will contest in Court for defendants. The responsibility for advising as to questionable transactions, for bringing questionable suits, for urging questionable defenses, is the lawyer's responsibility. He cannot escape it by urging as an excuse that he is only following his client's instructions.

32. *The Lawyer's Duty in Its Last Analysis*

No client, corporate or individual, however powerful, nor any cause, civil or political, however important, is entitled to receive nor should any lawyer render any service or advice involving disloyalty to the law whose ministers we are, or disrespect of the judicial office, which we are bound to uphold, or corruption of any person or persons exercising a public office or private trust, or deception or betrayal of the public. When rendering any such improper service or advice, the lawyer invites and merits stern and just condemnation. Correspondingly, he advances the honor of his profession and the best interests of his client when he renders service or gives advice tending to impress upon the client and his undertaking exact compliance with the strictest principles of moral law. He must also observe and advise his client to observe the statute law, though until a statute shall have been construed and interpreted by competent adjudication, he is free and is entitled to advise as to its validity and as to what he conscientiously believes to be its just meaning and extent. But above all a lawyer will find his highest honor in a deserved reputation for fidelity to private trust and to public duty, as an honest man and as a patriotic and loyal citizen.

33. *Partnerships—Names*

Partnerships among lawyers for the practice of their profession are very common and are not to be condemned. In the formation of partnerships and the use of partnership names care should be taken not to violate any law, custom, or rule of court locally applicable. Where partnerships are formed between lawyers who are not all admitted to practice in the courts of the state, care should be taken to avoid any misleading name or representation which would create a false impression as to the professional position or privileges of the member not locally admitted. In the formation of partnerships for the practice of law, no person should be admitted or held out as a practitioner or member who is not a member of the legal profession duly authorized to practice, and amenable to professional discipline. In the selection and use of a firm name, no false, misleading, assumed or trade name should be used. The continued use of the name of a deceased or former partner, when permissible by local custom, is not unethical, but care should be taken that no imposition or deception is practiced through this use. When a member of the firm, on becoming a judge, is precluded from practising law, his name should not be continued in the firm name.

Partnerships between lawyers and members of other professions or non-professional persons should not be formed or permitted where any part of the partnership's employment consists of the practice of law.

34. *Division of Fees*

No division of fees for legal services is proper, except with another lawyer, based upon a division of service or responsibility.

35. *Intermediaries*

The professional services of a lawyer should not be controlled or exploited by any lay agency, personal or corporate, which intervenes between client and lawyer. A lawyer's responsibilities and qualifications are individual. He should avoid all relations which direct the performance of his duties by or in the interest of such intermediary. A lawyer's relation to his client should be personal, and the responsibility should be direct to the client. Charitable societies rendering aid to the indigents are not deemed such intermediaries.

A lawyer may accept employment from any organization, such as an association, club or trade organization, to render legal services in any matter in which the organization, as an entity, is interested, but this employment should not include the rendering of legal services to the members of such an organization in respect to their individual affairs.

36. *Retirement from Judicial Position or Public Employment*

A lawyer should not accept employment as an advocate in any matter upon the merits of which he has previously acted in a judicial capacity.

A lawyer, having once held public office or having been in the public employ, should not after his retirement accept employment in connection with any matter which he has investigated or passed upon while in such office or employ.

37. *Confidences of a Client*

It is the duty of a lawyer to preserve his client's confidences. This duty outlasts the lawyer's employment, and extends as well to his employees; and neither of them should accept employment which involves or may involve the disclosure or use of these confidences, either for the private advantage of the lawyer or his employees or to the disadvantage of the client, without his knowledge and consent, and even though there are other available sources of such information. A lawyer should not continue employment when he discovers that this obligation prevents the performance of his full duty to his former or to his new client.

If a lawyer is accused by his client, he is not precluded from disclosing the truth in respect to the accusation. The announced intention of a client to commit a crime is not included within the confidences which he is bound to respect. He may properly make such disclosures as may be necessary to prevent the act or protect those against whom it is threatened.

38. *Compensation, Commissions and Rebates*

A lawyer should accept no compensation, commissions, rebates or other advantages from others without the knowledge and consent of his client after full disclosure.

39. *Witnesses*

A lawyer may properly interview any witness or prospective witness for the opposing side in any civil or criminal action without the consent

of opposing counsel or party. In doing so, however, he should scrupulously avoid any suggestion calculated to induce the witness to suppress or deviate from the truth, or in any degree to affect his free and untrammeled conduct when appearing at the trial or on the witness stand.

40. *Newspapers*

A lawyer may with propriety write articles for publications in which he gives information upon the law; but he should not accept employment from such publications to advise inquirers in respect to their individual rights.

41. *Discovery of Imposition and Deception*

When a lawyer discovers that some fraud or deception has been practiced, which has unjustly imposed upon the court or a party, he should endeavor to rectify it; at first by advising his client, and if his client refuses to forego the advantage thus unjustly gained, he should promptly inform the injured person or his counsel, so that they may take appropriate steps.

42. *Expenses*

A lawyer may not properly agree with a client that the lawyer shall pay or bear the expenses of litigation; he may in good faith advance expenses as a matter of convenience, but subject to reimbursement.

43. *Approved Law Lists*

It is improper for a lawyer to permit his name to be published in a law list the conduct, management or contents of which are calculated or likely to deceive or injure the public or the profession, or to lower the dignity or standing of the profession.

44. *Withdrawal from Employment as Attorney or Counsel*

The right of an attorney or counsel to withdraw from employment, once assumed, arises only from good cause. Even the desire or consent of the client is not always sufficient. The lawyer should not throw up the unfinished task to the detriment of his client except for reasons of honor or self-respect. If the client insists upon an unjust or immoral course in the conduct of his case, or if he persists over the attorney's remonstrance in presenting frivolous defenses, or if he deliberately disregards an agreement or obligation as to fees or expenses, the lawyer may be warranted in withdrawing on due notice to the client, allowing him time to employ another lawyer. So also when a lawyer discovers that his client has no case and the client is determined to continue it; or even if the lawyer finds himself incapable of conducting the case effectively. Sundry other instances may arise in which withdrawal is to be justified. Upon withdrawing from a case after a retainer has been paid, the attorney should refund such part of the retainer as has not been clearly earned.

45. *Specialists*

The canons of the South Carolina Bar Association apply to all branches of the legal profession; specialists in particular branches are not to be considered as exempt from the application of these principles.

46. *Notice of Specialized Legal Service*

Where a lawyer is engaged in rendering a specialized legal service directly and only to other lawyers, a brief, dignified notice of that fact, couched in language indicating that it is addressed to lawyers, inserted in legal periodicals and like publications, when it will afford convenient and beneficial information to lawyers desiring to obtain such service, is not improper.

47. *Aiding the Unauthorized Practice of Law*

No lawyer shall permit his professional services, or his name, to be used in aid of, or to make possible, the unauthorized practice of law by any lay agency, personal or corporate.